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ABSTRACT

This document presents findings of Project SEARCH, a qualitative research study of how charter schools interpret laws and regulations governing the education of children with disabilities, especially the federal Individuals with Disabilities Education Act (IDEA). The project involved a preliminary 15-state policy analysis followed by in-depth case studies of seven states (Arizona, California, Colorado, Connecticut, Florida, Minnesota, North Carolina) and the District of Columbia. Findings identify recurring themes in the areas of governance, service delivery models, accountability, operational issues, and technical assistance. Two central tensions or policy conflicts were also identified: first, balancing procedural regulations and the goal of autonomy and second, negotiating parental choice and special education team decision making. Ten recommendations address the themes identified earlier and include: (1) policy guidance is needed regarding a charter school's local education agency's status as it applies to legal responsibilities under IDEA and related state laws; (2) authorizers should permit charter schools to consider a variety of options for meeting their special education responsibilities; and (3) during the initial start-up (one to three years) charter schools should affiliate with a special education infrastructure. Extensive appendices include details on the study's methodology and executive summaries for each of the state case studies. (Contains 15 references.) (DB)

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PROJECT SEARCH

Special Education as Requirements in Charter Schools

FINAL REPORT OF A RESEARCH STUDY

Eileen M. Ahearn
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IDEAs that Work
U.S. Office of Special Education Programs

NASDSE
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CROSS-STATE ANALYSIS OF FINDINGS AND SUMMARIES OF STATE CASE STUDIES

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The research team also expresses appreciation to the U. S. Department of Education Office of Special Education Programs (OSEP) for the support of this project, to the administrators and staff of the National Association of State Directors of Special Education who gave generously of their time and talents to the research team throughout the time of the study, and to the staff at the University of Maryland who assisted in management of the subcontract that was a part of this project.

The conclusions in this report are the responsibility of the members of the Project SEARCH research team, and our appreciation of these contributions does not in any way imply endorsement of the findings or reports from Project SEARCH by any of the participants or supporters of the project.

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I. Introduction to Project SEARCH

Project SEARCH (Special Education as Requirements in Charter Schools), is a qualitative research study of how the nation's public charter schools are implementing special education policies. Specifically, Project SEARCH looked at the ways charter schools interpret the laws and regulations governing the education of children with disabilities, especially as defined under the federal Individuals with Disabilities Education Act (IDEA).

Project SEARCH was a two-phased investigation. The preliminary phase included a 15-state policy analysis that was used to guide the process and content of the study's second – and main – phase: case studies based on extensive data collection in seven states and the District of Columbia. This report is a synthesis of the findings from both phases. It includes a description of Project SEARCH, the two key findings that emerged from the initial policy analysis, cross-state findings from the eight state-level case studies, conclusions, and recommendations.[1] The recommendations are designed to help states, districts or other authorizing entities, individual charter school operators, other government officials and policymakers better address the responsibility of providing special education in charter schools.

Additional information about Project SEARCH, including this report, is available at the website of the National Association of State Directors of Special Education (NASDSE) at: www.nasdse.org/project_search.htm.

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[1] The District of Columbia, for the purposes of this study, is referred to as one of the eight "state" case studies.

Background: The Charter School Movement and Special Education

Charter schools appeared on the American education scene at the beginning of the 1990s. The first state charter school law was passed in Minnesota in 1991, and the first charter school opened in the 1992-93 school year. By the start of the 2000-01 school year, 36 states plus the District of Columbia and Puerto Rico had passed charter school legislation and over 2,000 charter schools with over 518,000 students were in operation nationwide (see the Center for Education Reform website at www.edreform.com/pubs/chglance.htm for national statistics). Charter laws differ significantly from one another, but they generally allow teachers, parents, community groups, business leaders, and/or others to apply for a charter and open a new public school or convert an existing school, with some degree of independence from a traditional public school district. The charter school movement is grounded in part on the proposition that deregulation can serve as a catalyst to develop more effective and efficient public schools (Finn, Manno, & Vanourek, 2000; Nathan, 1996).

A growing body of research on charter schools is emerging. In particular, studies investigating special education in charter schools are increasing as charter operators become more aware of their legal obligations and as more students with disabilities enroll in charter schools. Several recent studies have identified special education as a major issue facing charter operators. As part of their larger comprehensive evaluation of Michigan's charter schools initiative, Horn and Miron (2000) examined special education issues from the perspectives of the charter schools, the public school districts, and parents. Their report concludes that many of the issues raised by traditional public schools and the families who left charter schools suggest that charter schools violate IDEA. To be specific, Horn and Miron document that charter schools generally enroll fewer children with disabilities than traditional public schools and enroll children who have mild or high incidence disabilities such as specific learning disabilities, as opposed to children with more severe disabilities who require more services.

A federally funded study directed by Thomas Fiore (2000) at Westat involved visits to 32 charter schools located in multiple states. The researchers asked parents, teachers, and students why parents enrolled their children with disabilities in a charter school, how charter schools serve those students, and how successful charter schools are in meeting their goals. This study found that parents of students with disabilities enroll their child in a charter school for a combination of reasons related to attractive features of the charter school and negative experiences with the previously attended school. The report also notes that staff at some charter schools "counsel" parents of some students with disabilities against enrolling in the charter school. However, some charter schools specifically are designed to serve children with disabilities and other at-risk learners. Barriers encountered by charter schools in providing for students with disabilities include lack of adequate funding, strained relationships with local districts, lack of extracurricular activities, and the high costs of transportation.

Finally, Finn, Manno, and Vanourek (2000) also found that some charter schools might not be meeting all the needs of their students with disabilities. They attribute service inadequacies to "lack of experience, expertise, or resources" on the part of charter schools (p. 159). However, Finn et al. recommend against additional regulation and suggest that special education should be addressed before charters are issued. They also recommend that the larger question regarding special education and charter schools is the degree to which charter schools are serving children with disabilities "differently than conventional schools" (p. 160). These authors also oppose attempting to standardize special education in charter schools and urge policy makers to recognize that charters are meant to be different and this includes how they deliver special education.

Project SEARCH complements and expands upon the existing studies by focusing on governance and policy contexts that address the implementation of special education and related services in charter schools. The origin of the policies is found in federal law and regulations that create the legal context in which charter schools must operate.

Special Education: Broad Federal and State Policy Context

State charter laws release charter schools from many local and state educational rules and regulations. These laws cannot supersede any federal laws. In particular, all charter schools must abide by civil rights statutes that protect students' access to public education regardless of race, ethnicity, religion, or disability.

The civil rights principles that apply to charter schools are the same principles that apply to all public schools.

As stated in the most recent document released by the U. S. Department of Education Office for Civil Rights (2000) related to charter schools, "The civil rights principles that apply to charter schools are the same principles that apply to all public schools" (p.iii). Among the laws and regulations containing these principles are Section 504[2] of the Rehabilitation Act, the Americans with Disabilities Act (ADA) and IDEA. Every state receives federal funds under the IDEA. As a result, because they are part of the public education system, all charter schools must comply with the IDEA law and regulations concerning the education of individuals with disabilities. In addition, state special education laws and regulations further define public schools' responsibilities under IDEA and can also add requirements. Similarly, LEAs (local school districts) can make policies or define procedures for delivering special education in public schools. Waivers of laws or regulations permitted under state charter school laws pertain only to local and state special education regulations that go beyond the federal requirements.

However, federal and state special education law represents more than a simple civil rights declaration. Eligibility under IDEA requires that a student be identified as having one or more of the specific categories of disability defined under IDEA and that the disability is determined to have an adverse impact on the student's educational achievement. Federal special education law puts forth a set of procedures that Congress designed to ensure that each eligible student with a disability receives a free appropriate public education (FAPE). The foundation of FAPE is each student's entitlement to an individualized education reflected in an Individual Education Program (IEP). IEPs are developed through a team process that includes school personnel and parents. Students' IEPs specify the special education and related services designed to confer reasonable educational benefit.

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[2] Under Section 504, a recipient of federal funds "that operates a public elementary or secondary education program" must provide a free appropriate public education to students with disabilities. Section 504 is broader than IDEA and essentially confers the same entitlement to services for students with disabilities, although there are no funds available under 504 as there are under IDEA.

Special education procedures have evolved over the 25 years that the federal policies have been in place. Some of the procedures relate directly to ensuring that each student with a disability is eligible under IDEA. Other procedures are designed to ensure compliance of the public school systems with all federal requirements related to the education of students with disabilities. Unlike most traditional educational accountability mechanisms that use aggregate student achievement or other school-level data, IDEA requires accountability at the individual student level. Put simply, the foundation of IDEA is the individual student. Consequently, schools cannot respond only to the needs of most or a majority of students with disabilities; they must be prepared to address the individual needs of all eligible students.

Maintaining a system of special education and related services is a formidable task for traditional districts as well as charter schools. Many of the issues that confront charter school operators also pose challenges to traditional public schools (i.e., lack of qualified staff, inadequate funding, complexity of special education paperwork, and accountability procedures). However, the context of delivering special education is unique in charter schools due the nature of these schools' governance structures, which maximize autonomy. Project SEARCH was designed to capture the ways in which state charter school laws and policies and individual charter school operators are negotiating the dual goals of autonomy and deregulation in order to provide an appropriate education to students with disabilities.

II. Description of Project SEARCH[3]

A single overriding research question guided Project SEARCH: What policies and practices facilitate the capacity of charter schools to provide special education services? Embedded in this broad question are specific questions regarding where and how special education fits into state laws and regulations, the charter application process, school governance, finance and facilities, staffing, technical assistance, service delivery, data collection and accountability, transportation, and finally, the charter school's mission. These questions served as the basis of data collection for the initial 15 state policy study and the subsequent case studies that provide rich insight into what state, district, and school level policies and practices influence charter schools' capacity to deliver special education.

Assumptions Underlying the Research

Three assumptions guided Project SEARCH: (a) Charter schools, as publicly funded entities, are obligated to provide access and a free appropriate public education (FAPE) to students with disabilities; (b) special education structures and legal requirements are challenging to implement for charter schools nationwide; and (c) state level special education and charter school policies frame how charter schools deliver special education. With these assumptions in mind, Project SEARCH sought to identify policies and procedures that advance or impede charter schools' ability to meet their legal obligations within the context of greater autonomy and flexibility granted by state charter school laws. For example, do districts help or hinder charter schools' capacity to deliver special education? If so, how? Or, how do state-level policies enhance or hinder the implementation of special education in charter schools?

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[3] A comprehensive review of Project SEARCH's methodology is provided in Appendix A.

Project SEARCH did not seek to identify school-specific approaches or models of special education service delivery or to evaluate how effectively special education students are being educated within charter schools. Furthermore, this research did not aim to document or examine the challenges associated with implementing IDEA that pertain to all public schools. Rather, Project SEARCH focused on specific state policies and practices that influence charter schools' capacity to appropriately serve children with disabilities.

Methodology

Project SEARCH utilized a two-phased investigation process. The first project activity, completed in February 1999, was a policy analysis of 15 states with charter schools in operation for at least one year. A minimum of three persons (i.e., state director of special education, state charter school liaison, and resource center director) were interviewed in each of 15 states. The purpose of the interviews was to identify the major policy issues confronting charter schools implementing special education. The policy analysis explored the issues involved with delivering special education in charter schools and provided data from which the research team developed criteria for selecting a sample of states and refining the focus of the data gathering during the second and main phase of the study. The initial policy investigation revealed that there are two domains—policy and practice—which determine the governance and operational relationships between charter schools and LEAs for the purpose of special education. A report based upon the findings of the initial 15 state policy analyses, *Charter Schools and Special Education: Balancing Disparate Visions. An Investigation of Charter Schools and Special Education in Fifteen States* (Rhim & McLaughlin, 2000) is available at: www.nasdse.org/project_search.htm.

The second phase of research was conducted during the 1998-1999 and 1999-2000 school years and consisted of in-depth case studies of special education policies and practices in charter schools in seven states and the District of Columbia.[4] Using data collected during the initial 15 state policy investigations, the sample was drawn purposefully (Miles & Huberman, 1994) in order to reflect maximum variation among the individual states based upon:

- The length of time charter schools have been operating in the state;
- The number of charter schools operating in the state; and
- The degree of autonomy granted charter schools from their LEA by the state charter school law.

The seven case study states were Arizona, California, Colorado, Connecticut, Florida, Minnesota, and North Carolina. A case study of the District of Columbia analyzing the design and implementation of a special education cooperative by charter schools was added as a complement to the seven in-depth state case studies. The DC case provides insight into the formation of a special education cooperative and what services a cooperative can provide its members. The primary sources of data for all eight case studies were semi-structured, in-depth interviews, focus groups, and extensive document reviews. The Project SEARCH research team analyzed the eight case studies and identified cross-case themes and specific findings.

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[4] Executive summaries of the eight case studies are located in Appendix B.

III. Phase I: Preliminary Policy Analysis Findings

The preliminary 15 state policy analysis revealed two key findings (described in detail below) that influenced the subsequent in-depth case studies: (a) the substantive policy and practice implications of a charter school's status as an LEA or part of an LEA, and, (b) the related notion of "linkage." These two findings shaped the case study sample and illuminated key issues that determine the manner in which charter schools deliver special education.

Policy Implication Stemming from Charter Schools' LEA Status

The nature of a charter school's obligations under the IDEA and Section 504 is related to its legal identity as defined in the state's charter school law and practice. This status has significant implications for the level of responsibility that a charter school will have for students with disabilities. Prior to the development of charter schools, the trail of responsibility under federal IDEA was relatively simple: federal law set mandates and/or provided funds for states which, in turn, held traditional LEAs responsible for adherence to the law. Although the designation of charter schools as independent LEAs is consistent with a common perception of charter school policy (i.e., charter schools are independent autonomous entities), the actual status of individual charter schools and consequently their roles and responsibilities pertaining to children with disabilities vary widely. Depending on the state in which it is located, an individual charter school may be considered a school within an LEA, a program within an LEA, or a separate LEA.

In its most common meaning, an LEA or district is comprised of one or more schools and has assigned responsibility for the education of all children who reside within a designated geographical area of a state. However, IDEA defines an LEA in a different way:

The nature of a charter school's obligations under the IDEA and Section 504 is related to its legal identity as defined in the state's charter school law and practice.

> *a) As used in this part, the term local educational agency means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, school district, or other political subdivision of a State, or for a combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools.*
>
> *b) The term includes—*
>
> *1) An educational service agency, as defined in Sec. 300.10;*
>
> *2) Any other public institution or agency having administrative control and direction of a public elementary or secondary school, including a public charter school that is established as an LEA under State law [34 CFR Section 300.18].*

Furthermore, IDEA stipulates that an LEA which includes one or more charter schools must provide services and funds to its charter schools "in the same manner as it provides" services and funds "to its other schools" [20 U.S.C. Chap. 33 Section 1413(a)(5)]. Finally, IDEA dictates that LEAs (including charter schools if identified as such) are responsible for ensuring FAPE "unless State law assigns that responsibility to some other entity" (34 CFR Section. 300.312).

Thus, if a charter school is considered to be a separate LEA under its state law, it technically "owns" ultimate responsibility for educating all students with disabilities who are enrolled in the school. This means that, if the IEP team decides that a student enrolled in a charter school needs certain accommodations, supports, curricula, or instructional procedures, the school is obligated to provide these. Depending on state charter school law, this can include responsibility for providing private school tuition. It also implies that the charter school is obligated to follow state policies relative to child find: an affirmative effort to screen and assess children who potentially have disabilities.

. . . as schools of choice, charter schools blur the definition of LEA.

Yet, as schools of choice, charter schools blur the definition of LEA. Unlike traditional districts, charter schools do not "own" responsibility for any student except those currently enrolled in the school. When a student exits a charter school, the charter school does not have any further responsibility for that student. In contrast, a traditional LEA has permanent responsibility for any student who resides within that LEA's attendance area. Thus, the way the term "LEA" is used in reference to charter schools is misleading. Although the language in IDEA regarding charter schools was added to protect students' entitlement to resources, the incorporation of these terms into law and regulations serve to confound the issue.

Finally, charter schools' LEA status affects accountability. Accountability in special education as specified in IDEA stipulates that the SEA is the party responsible for ensuring that an eligible child receives a free appropriate public education (FAPE). The SEA delegates certain functions to the LEA. However, the SEA has a formal obligation to ensure that local districts provide students with disabilities their full legal rights and cannot abdicate its responsibility to ensure that special education legal procedures are followed. As a result of the federal law and specifically the manner in which states hold local districts responsible for FAPE, charter schools are not permitted the level of autonomy in special education that they may typically be afforded in other educational areas. The legal identity of charter schools and specifically the degree of individual schools' autonomy from a local LEA or other component of the state educational system were a major focus of this study.

Typology of Linkage

A critical finding of the research is that the degree and type of link between a charter school and a district significantly influence a school's capacity to implement special education. After analyzing data from the Phase I state level policy analysis, the research team developed a typology of linkage between charter schools and LEAs or other formal administrative units such as an intermediate school district. The typology reflects the degree to which a charter is legally linked to an LEA and is comprised of three categories: total-link, partial-link, and no-link. The linkages are identified formally through state and/or district policies, or informally through negotiations between individual charter school operators and individual LEAs or similar administrative units or support systems. However, the fundamental basis of a link is the manner in which the state charter school law defines a charter school relative to its local district or authorizing district and the manner in which the law delegates special education responsibility. We defined the three degrees of linkage as follows:

- *Total-Link:* Formal linkage established in statute or regulation that links a charter school and an LEA in all areas of special education;
- *Partial-Link:* Charter school is legally independent, but there is a legislated requirement for a negotiated relationship with the traditional LEA (or an intermediate district entity), or there is legislated protection for special education responsibilities at the LEA level;
- *No-Link:* Charter school is legally independent and operates autonomously from LEA control. Any relationship with the LEA is entirely voluntary for both the charter school and the LEA.

The most common type of linkage is between a charter school and an LEA, either through formal regulation or informal agreement. The degree of linkage is relevant for several reasons. For example, linkage serves to define the specific responsibilities of the SEA and the LEA in relation to the charter school and to the individual students within the school who are receiving special education services. The typology provides a policy-based framework to understand issues regarding implementation of special education in charter schools.

In summary, the initial policy analysis revealed two key issues that influence the manner in which special education is delivered to children with disabilities who enroll in charter schools—the charter school's LEA status and the charter school's degree of linkage to an LEA—both of which are generally dictated

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by individual state charter school laws. Based upon the Phase I data, the SEARCH team theorized that these issues influence charter schools' capacity to deliver special education. Subsequently, in choosing a sub-sample of the initial 15 states for the in-depth case studies, the degree of linkage stipulated by the individual state charter school laws and charter schools' status as LEAs or part of a traditional LEA served as the major criteria for the case study site selection.

IV. Phase II: State-Level Case Study Findings

The seven states and the District of Columbia served as laboratories to further examine the findings from Phase I and answer the overarching research question: What policies and practices facilitate the capacity of charter schools to provide special education services? Related issues were investigated in several areas and are reported upon in this section.

The variability between and among charter schools and their experiences with special education provide context for answering the research question. The eight case studies confirmed the findings from the initial policy study: individual charter laws, and specifically the manner in which authorizers interpret the law regarding special education in practice, can facilitate or hinder charter schools' capacity to implement the requirements of IDEA. Generally, individual charter schools' experiences with special education varied across and within all eight case study sites. However, across all eight sites, implementing special education appropriately depended upon the overall capacity of individual schools and/or school districts. The notion of capacity is multi-dimensional and incorporates various policy levels (i.e., federal, state, local, and school) and diverse policy actors with sometimes conflicting or competing goals and objectives. The following sections examine the findings in the key areas addressed in the study: special education governance issues, special education service delivery, accountability, operational issues, and technical assistance.

Governance Related To Special Education In Charter Schools

For the purposes of this study, the notion of governance incorporates the manner in which charter schools interact with an LEA or other established special education infrastructure, such as a Special Education Local Plan Area (SELPA) or a Board of Cooperative Education Services (BOCES), for the purposes of special education. Governance incorporates the actual legal relationship but also the manner in which the relationship is negotiated during the charter application and contract phase and the manner in which special education funding flows to charter schools.

As noted previously, the two major charter school governance issues relevant to the implementation of special education are the legal identity of the charter school and the nature of charter schools' relationship to the rest of the public education system in the state, both of which are stipulated or implied in state charter school laws. In some states, a charter school is considered to be another school within an existing LEA, while in other states, a charter school is completely independent and identified as a separate LEA. In some states, the implications of a charter school's legal identity as it pertains to special education are unclear and may vary from school to school depending on decisions of either the charter applicant or others in the system. For example, the two main sponsoring authorities, the State Board of Education or the State Charter School Board, generally sponsor prospective charter schools in Arizona. However, a charter school can receive its sponsorship through a local school district, in which case the sponsoring school district is responsible for special education oversight.

In some states, the implications of a charter school's legal identity as it pertains to special education are unclear and may vary from school to school depending on decisions of either the charter applicant or others in the system.

The type of linkage that is mandated or negotiated between a charter school and an LEA determines many aspects of the way special education is implemented in that school. Charter schools in total- or partial-link states are more closely tied to a school district or other entity in the area of special education than schools from no-link states.

Charter school laws and regulations are often ambiguous relative to the roles charter schools, LEAs, and the SEA should play in implementing special education. As a result, findings from some partial and total-link states revealed that operators were frustrated with the bargaining and brokering that takes place around special education and, specifically, the power differential that frequently arises between LEAs that authorize charter schools and individual charter applicants and operators. In some states, districts ultimately retain most of the responsibility for assuring a free appropriate public education according to IDEA, and some LEAs are hesitant to provide the charter schools with a great deal of autonomy in this area. Consequently, in these states, the district controls the IEP process and most staffing decisions. Frustrations were also apparent for operators and officials in no-link states as they tried to discern their responsibilities without the guidance of written regulations or laws.

The states examined through Project SEARCH illustrate this diversity of identity and linkage. At one end of the spectrum are Arizona and North Carolina where almost every charter school is an independent school district with no legal requirement for a relationship with other LEAs in the state.[3] At the other end of the continuum, the laws in Connecticut and Colorado mandate relationships between charter schools and their authorizers at least in the area of special education. In states such as Florida, Minnesota and California, charter schools fall between those two extremes—their state laws direct some type of relationship with a traditional LEA governing special education in the charter school. For example, Minnesota charter schools are legally independent, but can bill back to the student's district of residence the costs of special education services that go beyond state and federal aid contributions. Other variations also exist such as the provision in the charter laws in the District of Columbia directing each charter applicant to choose whether the school will be a part of the District of Columbia Public Schools or an independent LEA specifically for purposes of special education.

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[3] A few charter schools in Arizona have been started by a traditional LEA and exist as part of that district. However, they are currently only a very small percentage of the total number of charter schools in the state.

Legal Relationships and Special Education

The legal identity of a charter school in state law should establish the responsibility for special education in a charter school. In no-link states, the law should clearly indicate that charter schools are accountable for all aspects of special education, while charter school laws in partial-or no-link states should define the level of responsibility that charter schools carry. The Project SEARCH team learned, however, that ambiguity in the laws often leaves both the charter school and the LEA confused about who has ultimate responsibility for the many aspects of special education delivery and finance. As described previously in this report, charter schools may have a total- or partial-link to a traditional LEA or they may be separate LEAs with no link at all to another LEA or educational entity. While statutory requirements concerning a charter school's relationship with an LEA provide the basis for special education, this study documented that the manner in which charter schools are handling this responsibility varies greatly. Lines of responsibility were clearest for charter schools that are separate LEAs such as in Arizona and North Carolina where each charter school is the responsible party fiscally and programmatically for all aspects of special education services.

Many differences in the relationship charter schools have with their LEAs were found in states where a partial or total link, for purposes of special education, is required by law. As in any mandated relationship, many factors were found to contribute to the success or failure of the relationship—formal personal and professional contact between school personnel, levels of negotiation skills, interpretations of degrees of liability, and all the nuances of interpersonal communication. Findings from this study confirm that relationships and communication are key factors in determining the character and quality of the formal relationship once a charter opens. The quality of the communication between charter school and LEA personnel prior to the charter application in addition to the willingness of both parties to communicate and work with one another are key to a successful relationship.

State laws do not specify responsibility for special education per se, so some level of variation was expected. However, this study also documented considerable differences in authority patterns even where the law was specific in assigning special education responsibility. For example, Connecticut has one of the few state laws that specifies matters pertaining to special education—each LEA there retains responsibility for evaluation and service delivery for students with disabilities who live in its district even if they attend a charter school. Yet in some Connecticut charter schools, itinerant LEA staff from students' resident school districts deliver special education to the students from their school district who attend the charter school, while other charter schools receive funds directly from the student's LEA and hire their own staff to meet that child's special education needs.

Many special educators interviewed for this study see the position of special education administrator as critical to ensuring that charter schools follow the law and provide adequate services to children with disabilities, but charter schools in most states are small and usually do not include this position in their administrative structure. Most state laws or regulations do not require that this position or function be included. However, in Minnesota, the state education agency provides IDEA discretionary funds to the charter school association to hire a special educational director. Many Minnesota charter operators commented on the important role the charter school special education director plays in their ability to organize their special education services. Recently, Minnesota has requested each charter school to have a director of special education either on staff or in a consulting role to review and approve special education requirements and oversee special education delivery. Some have hired consultants, some use the association's director, and others assign the duties to a staff member.

The content of a state's charter school law and its intended and unintended consequences factor into nearly every aspect of special education in charter schools. Charter schools are further affected by the ambiguity of charter laws with regard to special education. In most states, charter school laws do not clearly outline the manner in which special education will be delivered, but they do contain general language that requires charter schools to comply with anti-discrimination statutes including those that apply to children with disabilities. However, the laws are written in a manner that assumes that charter applicants have a basic understanding of the particular obligations that they are committing to uphold. In practice, informants in all of the states reported that charter applicants are generally not very knowledgeable about special education and do not appear fully aware of the obligations attached to the non-discrimination clauses. Consequently, states reported that, at least in their early years of granting and operating charter schools, many operators were naïve about their role and responsibility in the area of special education.

Charter School Applications and Contracts

Charter school operators must complete an application or proposal for approval in order to open a charter school. During the critical application and contract process, the written or unwritten rules, regulations, and special education governing structure are defined. It is during this process that a state or authorizing entity, sometimes referred to as a sponsor, has the opportunity to clarify the roles, rules, and responsibilities for special education for each of the parties involved. The approval process differs by state. Applications may ask for information about the potential charter school's location, curriculum, budget, staffing, or other areas of interest. In some states the applications are part of an approval process mandated by the state; in other states the application and approval process are left to the discretion of the sponsoring entity.

Of major interest in this study was the extent to which the application or proposal process included special education as an area of review prior to the school's approval or opening. Also of interest was the level of training in special education procedures required by states or sponsors prior to opening. Since the number of authorizing entities varies by states, the extent to which a state or single authorizer has control over the process also varies. For example, in Connecticut, the State Board of Education is the only chartering authority, while in Minnesota any of the over 300 school districts, as well as any post-secondary institution or non-profit organization can sponsor a charter school. In the case of Minnesota, there are guidelines for the application and proposal process, but each sponsor has the final say as to what is included in their application.

In addition to the application process, the study examined the role of contracts in special education delivery. Many charter schools are either required by their states to contract for services or choose to fulfill their responsibilities in this way. The study investigated the issues with contacting between the charter school and other entities in the area of special education.

Applications and Special Education Plan Requirements

In most cases, states do not require in-depth information about the potential charter school's special education plans. Typically, prospective operators are asked to sign an assurance that they will follow the law and provide the service. However, many times new charter operators are not sure of the extent of special education law and procedures in the areas of finance, law, and programming. For example, in Connecticut where there is a uniform application for all prospective charter schools, prospective operators are asked to "explain how your school will accommodate special education students." They are also asked "how the school will work with the local school district to ensure the provision of special education services." The criteria provided to the prospective operators are (a) compliance with federal mandates, and (b) the ability to accommodate special needs students in the school program. However, information gathered from local school district personnel revealed that many times, even though the application implied that school districts would be involved in the process, LEA staff were not aware of a charter school in their district until it opened. Similarly, prospective charter operators in Florida must outline how they intend to meet the needs of children with disabilities. Minnesota also stipulates that an applicant must provide a plan for special education delivery. In reality, findings indicated that most of the plans were brief and generally covered only the most basic information.

In most cases, authorizers do not require in-depth information about the potential charter school's special education plans.

In Arizona the law requires that prospective charter operators sign "assurances," two of which relate to special education. One concerns compliance with state laws "related to the education of disabled pupils." The other is a direct reference to the transportation of students with disabilities. Most charter schools are sponsored through two authorizers in Arizona, the State Board of Education and the State Charter School Board. Both have their own applications where the assurances must be included.

In other states, such as North Carolina, the only required application information about special education is in the area of finance. Otherwise, applicants do not need to provide more detailed information on their level of special education knowledge or plan for service. California and Colorado do not require that any information about special education be included in the application. Whether or not state law specifies application requirements around special education, an authorizing entity can have its own requirements.

Contracts

Once the application has been approved, a prospective charter school moves to the contract phase with the sponsoring authority. Florida requires that a special education plan be included in the contract at this point. However, this is not required in the other states, where the sponsor determines if special education will be addressed in the contract. Florida charter schools' ties to their sponsoring districts make the contract process very important because it is at this phase that the programmatic and financial responsibilities are determined for the charter school. In most of the other states, there was no pattern of sponsors requiring special education information in the contract.

Once the contracts are written, some of the case study states require a review by SEA personnel. Four of the states do review the contracts and the special education plans at that point. It is unclear if the others also require that level of review. In about half of the states studied, the authorizers do require a review of the special education plan before opening the charter school. Again, the level of detail is not specified in law or regulation, so the extent of the review is unclear and presumably varies by authorizer.

Although it would seem that there is extensive oversight in this area, given that some states require special education plans in the applications and some sponsors require some information, the findings actually paint a different picture. In nearly all states, key informants said the application process did not require adequate information from potential operators about special education. Many said that the plans were not detailed enough and did not provide information about whether the potential charter school personnel had the capacity to provide the services and the knowledge in the areas of assessment, staffing, finance, and law to comply with IDEA.

For states where the contract between the authorizer and the charter school plays a major role in special education delivery, several issues emerged from the findings. In Florida, a contract is set up between the sponsoring school district and the charter school after the application has been approved. Most school districts use a boilerplate contract that has been developed for this purpose. However, there is some concern that the charter school operators are not reviewing the contract closely enough and thus accepting it without question. This creates the possibility of confusion as the contract is administered. The complexities of special education services can cause problems between the charter school and the sponsoring school district if both parties have not carefully read and agreed upon the contract language. For example, if the contract stipulates that "district-certified" school psychologists must perform services at the charter school and this is not understood at the time the contract is signed, the charter school may be out of compliance with the contract if it hires a school psychologist who is not affiliated with the sponsoring school district.

In Colorado, a total-link state, key informants indicated that both boilerplate and individualized contracts are used to define the relationship between the LEA and the charter school. In either case, the contract is central to how special education is delivered. As one key informant explained, "There are high stakes around due process, and the contractual relationship is key. For example, if you require the charters to use district forms, you need to outline this in the contract." Colorado informants explained that the degree of specificity outlined in the application and the contract positively affects the charter school's ability to deliver special education, but that the level of specificity varied by school district.

The contracting process seems to play a different role in no-link states where the charter school bears the entire responsibility for special education services. Though charter schools often sign contracts or charters with their sponsoring authority, special education is a service that may or may not be available or even addressed in the contract. For charter schools in these states, the contracts may be with other educational entities that they have decided to hire for consultative services. The contracts, if used, are important in determining exactly what the school is getting from the provider, but they more closely resemble vendor contracts.

Finance

Study findings about finance focus on funding programs and services for students with disabilities who attend charter schools. However, the way in which charter schools are funded for all other operations has fiscal implications for the support of special education programs. While it is beyond the scope of this document to describe all aspects of charter school funding practices in detail, a state-by-state description is available in the document, *Venturesome Capital: State Charter School Finance Systems*, the first report of the federally funded National Charter School Finance Study that is available on the Web at: www.ed.gov/pubs/chartfin.

As part of the public school system, charter schools are legitimate recipients of all special education funds made available to other public schools. However, each state charter school law and/or fiscal policy has made its own provisions

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covering the determination of eligibility for, and dissemination of, special education funds for charter schools. Project SEARCH findings pertaining to federal and state funds are discussed separately since the funds are usually handled differently by states. Because of the complexity of this topic, some additional background information is also included.

Federal Special Education Funds

The 1997 Amendments to IDEA state that children with disabilities who attend public charter schools and their parents retain all rights under IDEA. Federal funds are available through IDEA Part B to support special education. Each year, states are granted an amount derived from the Congressional appropriation. Originally, each state's amount was based on the number of students in its child count of students with disabilities. The IDEA 1997 amendments revised the allocation formula to include: (a) a basic amount equal to the state's 1999 award, and (b) an additional amount distributed by a formula that also factors in the total state population of children ages 3 through 21, and the number of those children who are living in poverty. SEAs are allowed to retain a designated amount for administration and statewide programs, but must flow through the major portion of their IDEA grant to LEAs. Each state has developed its own procedures by which LEAs apply for their IDEA grants and provide data to the state on the expenditure of those funds.

The legal identity of a charter school and its linkage to an LEA largely determine the way in which it will access its IDEA entitlement.

The legal identity of a charter school and its linkage to an LEA largely determine the way in which it will access its IDEA entitlement. Compliance with IDEA requires that charter schools that are separate LEAs be considered eligible in the same way as all other LEAs in the state. Thus, whatever type of eligibility review or application process the no-link state uses for its LEAs will apply to its charter schools. Most of the charter schools in Arizona illustrate this procedure. To receive their IDEA entitlement, Arizona charter schools must go through the same application process as all other LEAs. However, the research team learned that as many as 40 percent of the Arizona charter schools do not apply for IDEA grants. Various reasons were offered, but no one cited lack of awareness about the application process. Some mentioned philosophical differences explained by one advocate as, "Feds should stay out of their hair." From a different perspective, an Arizona state official noted how difficult it is to enforce compliance, especially for schools that do not take federal funds:

> *In terms of the charter school law, I think the law could have more meat attached to the agency's ability to force compliance. There are many charter schools that don't apply for federal funds even if they do have special e. kids. It is not because they are unaware of special education laws. If [the charter school] is found to be in noncompliance, the state doesn't have any fiscal control over them. They can't interrupt payments of federal funds. With the state funds it would be virtually impossible to interrupt payments. There is no provision in the state law to withhold funds to charter schools.*

The situation is different for those charter schools that are considered part of an LEA. In those states, an LEA must provide funds to the charter school in the same manner it provides funds to its other schools. However, there are many variations among SEAs and LEAs in terms of how the funds actually reach students. For instance, Colorado law specifically allows for either direct payment to the charter school of its share of IDEA funds, or for an alternate arrangement to be negotiated in the chartering contract. In a number of the partial-link states, the LEAs pool their IDEA funds in order to sponsor district-wide activities such as in-service programs or special student services. Charter schools are entitled to participate in those benefits in the same way as the rest of the LEA's schools, but many charter school directors reported that the district's IDEA funded activities are not relevant to the charter school's mission or staff needs, and they expressed general confusion regarding the manner in which their students benefit from the federal dollars.

State and Local Funds

Since only a small portion of special education costs are covered by federal funds,[6] state and local allocations for special education are much more significant. State funding formulas for special education differ, and many have changed recently or are undergoing revisions to meet the IDEA 1997 requirement that their formula does not provide financial incentives to place children in more restrictive settings. As described in the IDEA Regulations Comments section:

> *Section 300.130(b) incorporates into the regulations the new statutory provision that specifies that if a State has a funding mechanism that distributes State funds on the basis of the type of setting in which a child is served, that mechanism may not result in placements that violate the LRE requirements.*

States use one, or a combination, of the following approaches in their funding formulas for allocating special education funds to their LEAs:

- A flat amount based on the number of children identified as eligible for special education;
- A flat amount based on the type of disability or placement of each student with a disability;
- Some type of weighted formula in which the allocation for general education funding is increased on the basis of factors such as type of disability, grade level, or level of services received;
- A census-based formula, that is, an amount based on total student enrollment in the LEA regardless of the number of students identified as eligible for special education;
- A reimbursement approach that refunds all or part of the amounts expended for special education services.

In general, funding for special education is provided to charter schools either directly from the state or through an LEA or other intermediate entity. However, there are extensive differences among states in the specifics of how the allocations are determined and how the funds are disseminated. For example, in Arizona, charter schools receive their state special education funding in three-month cycles starting after the official October enrollment count. The basis for the student count is enrollment on the 100th day of the school year. The school in which the student is counted retains all funds for that student even if s/he leaves after day 100 to attend another school. While North Carolina subsequently changed its law, during the time period of this study, the North Carolina State board provided a pro rata amount of additional funds for students with disabilities enrolling in a North Carolina charter school after the 60 day count. Conversely, North Carolina charter schools returned a pro rata amount for each child with a disability who left to attend another district.

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[6] Although the federal special education law sets the maximum amount a state can receive at 40% of the average per-pupil expenditure [§300.701(b)(2)], appropriations have never reached that level. With recent increases, IDEA now covers 10% to 12% of special education costs.

One of the issues that arose in nearly all states was access to student records.

The dissemination of state special education funds to charter schools in California involves some very controversial issues. The LEA is responsible for providing an equitable share of its special education funds to those charter schools that are part of that LEA. One of the obligations that these charter schools must meet as a part of an LEA is to contribute a portion of their charter school funding to support district-wide special education instruction and services. These charges are known by the colloquial term "encroachment," and LEAs charge their charter schools a per-student fee for this cost. The assessed amount differs widely among LEAs, ranging from about $100 to as much as $1,000 per student enrolled in the charter school. While some LEAs determine the fee unilaterally, other LEAs determine the encroachment fee through negotiations with the charter school director.

Sometimes a charter school must deal with an intermediary unit as well as an LEA. For example, all California charter schools are involved directly or indirectly with a Special Education Local Plan Area (SELPA), while Colorado charter schools located in more rural areas must work with a Board of Cooperative Education Services (BOCES). The broad purpose of these intermediary special education units is to provide centralized and specialized support for individual school districts. While Colorado charter schools visited did not report any particular or recurring issues regarding working with their BOCES, charter schools visited in California reported that the SELPA structure can hinder their capacity to deliver special education in large part due to ambiguities in the California state charter school law and the state special education funding procedures.

As a result of a change in the law adopted in 2000, California charter schools can choose to be their own LEA for purposes of special education. However, all special education funds, regardless of their source, flow through a SELPA and every LEA—including charter schools that become an LEA— must maintain membership in a SELPA. Some charter schools have reported problems in gaining acceptance into a SELPA and have therefore decided against identifying themselves as independent LEAs. The California charter law allows for the creation of a statewide SELPA organization to be established for charter schools. Plans for a separate charter schools SELPA were underway at the time of this study.

To address the challenge of funding a comprehensive special education program in a charter school, a number of Colorado districts have adopted a risk-pooling or insurance model in which the charter school pays a per-student amount to the LEA in return for the district's acceptance of fiscal responsibility for all special education services. While this approach can protect charter schools against unanticipated high costs associated with special education students, some charter schools involved in the insurance model raised issues concerning the rate charged and the fact that some districts mandate participation. In districts that mandate participation, charter schools are left with very limited independence to develop their special education program.

To address the challenge of funding a comprehensive special education program in a charter school, a number of Colorado districts have adopted a risk-pooling or insurance model in which the charter school pays a per-student amount to the LEA in return for the district's acceptance of fiscal responsibility for all special education services.

Project SEARCH also documented other strategies that protect charter schools from some high special education costs. In Florida, if a student with a disability in a charter school needs private placement, the LEA is responsible for the cost of that placement. In Minnesota, any excess funds required for charter schools' students with disabilities can be billed back to the LEA of residence of the student. This represents another version of the nexus principle used in Connecticut where responsibility for all special education costs remain with the student's district of residence. Another example of funding protection exists in Arizona where regulations allow school districts or charter schools to receive compensation for students with disabilities who were not served properly at their former school of attendance. If it can be proven that the school did not provide services stipulated under the IEP, the charter school or school district must either provide compensatory services or pay the parent or educational entity now serving the child.

RECURRING THEMES: GOVERNANCE RELATED TO SPECIAL EDUCATION IN CHARTER SCHOOLS

Governance

- The state charter school law defines the basic parameters in which these schools operate, including the extent to which they share or are solely responsible for special education.
- In no-link states, governance of special education is clear.
- In partial- and total-link states, the relationship between charter schools and their LEAs is often negotiated and, consequently, varies widely.
- Charter school application requirements vary by state and often by authorizers within states.

Legal

- While all state charter school laws include general anti-discrimination language, few require applicants to specifically outline the manner in which they plan to administer special education.

- Charter schools and districts struggle to determine their individual level of responsibility for costs associated with special education.

Applications and Contracts

- The application and contract negotiation processes are key points of contact between charter authorizers and charter schools during which ambiguities in the state charter law may be negotiated.
- Charter school personnel lack adequate awareness and expertise regarding allocation, dissemination procedures, and accounting mechanisms required to access their special education entitlements.

Finance

- When faced with unanticipated special education costs, charter schools struggle to realize economies of scale or access emergency resources available to traditional LEAs. Some LEAs have developed strategies to address these issues, but the strategies sometimes raise new challenges.

Special Educational Service Delivery in Charter Schools

Issues surrounding the delivery of special education services were important areas of inquiry for this study. Educational service areas investigated included the capacity of charter schools to meet the needs of special education students, the criteria used for admittance to the school and their relationship to special education, the IEP process, and the availability of an array of services. Closely related to the delivery of special education services is the issue of whether charter schools adhere to their individual philosophies and missions when educating students with disabilities. The impact these areas have on charter schools and educating students with disabilities becomes particularly important when considering the federally mandated responsibilities outlined in IDEA juxtaposed with the independent nature of charter schools and the state's role in determining charter school laws.

Though the special education delivery model was examined at some of the charter schools visited, it was beyond the scope of the study to determine specific aspects of service delivery being used. Rather, the issues surrounding the delivery of service and related areas were examined and are reported upon in this document.

In all states studied, the states' charter school laws specifically dictate that schools cannot discriminate based upon a student's disability status.

Charter School Admissions

In all states studied, the states' charter school laws specifically dictate that schools cannot discriminate based upon a student's disability status. For example, the Arizona state charter school law stipulates that "all eligible pupils who submit a timely application, unless the number of applications exceeds the capacity of a program, class, grade level or building," shall be enrolled (15-184). The law also explicitly states that a charter school "shall not limit admission based on ethnicity, national origin, gender, income level, disabling condition, proficiency in English language or athletic ability." However, the school may limit admission to students within a given age group or grade level. The language in Arizona's law is typical of the states studied. Though the states' laws are clear that no discrimination should occur, the study examined issues related to the admissions process.

> *The admissions process at individual charter schools within the states varies.*

The admissions process at individual charter schools within the states varies. Some charter schools have instituted a placement process in which all potential students and their families are interviewed to determine whether the school is a good "fit" for the student. In other charter schools, enrollment simply follows an application process with acceptance on a first come-first served basis. Generally, in those states where there was a total-link to an existing LEA or sponsor, placement meetings were held prior to a student's enrolling in the charter school. In the states where there was no-linkage between an existing educational entity or a very limited link, the decision to hold meetings was entirely dependent upon the individual charter school.

Though state charter school laws specifically address discrimination, there was still some confusion about admissions of students with special needs. Issues around admissions come to the forefront when the charter school operator does not understand what it means to comply with federal laws (i.e., IDEA) or with the state's mandate for no discrimination.

For some charter schools, admissions become an issue in the area of enrollment expectations. Many operators' vision of their school did not include serving students with disabilities. The operator's vision and the law can clash at the admissions point when parents are counseled-out of enrolling in the school or are told their children can enroll but may not receive the services they need. Findings from nearly all states suggest there is some "counseling-out" of students with disabilities. Some charter school advocates discussed the difficulty in meeting the needs of all students with the current funding. Others spoke of the lack of special education knowledge by charter school personnel and its impact on turning students away. Some participants discussed the philosophical differences among charter operators with some operators opposed to government mandates such as IDEA. Many of those interviewed in the various states explained that often counseling-out was not done with the intent of discrimination, but because they truly believed their school was not the best option for the potential student or because they did not realize the extent of the charter school's responsibility.

Four themes emerged in the admissions area that impact the enrollment of students with disabilities:

- Lack of knowledge about charter schools' special education responsibilities was common;
- An absence of special education teachers or administrators at charter schools limits the charter schools' ability to address the enrollment of special education students;
- The fear of high special education costs influences operator behavior regarding special education students; and
- Philosophical differences influence counseling-out behavior.

. . . those opening a charter school are generally unaware of the intricacies of IDEA and what it means for their educational delivery and start-up.

IDEA Implementation

Key informants in nearly all of the states studied indicated that those opening a charter school are generally unaware of the intricacies of IDEA and what it means for their educational delivery and start-up. In past years many charter school operators were under the erroneous impression that they were exempt from laws pertaining to special education and did not open their schools with the procedures and policies needed to comply with IDEA. Though there is still some misunderstanding about what is required by IDEA, most of those interviewed believe that existing operators are aware that they must serve students with disabilities. However, they are often not fully informed as to what that means procedurally. The IEP process is central to the implementation of IDEA, and issues relating to the IEP process were discussed in all of the states.

Many key informants indicated that implementing IDEA during the early years of a new charter school was particularly burdensome. The lack of knowledge of the operators and the other staff members as well as the costs of start-up often hindered the implementation early on. The amount of knowledge needed to understand all aspects of implementation, including finances, evaluation, due process, and other procedural requirements, created a barrier to timely implementation. In some states this meant that full implementation was not occurring until the second or third year of operation. Some states such as Minnesota were addressing the implementation issues by creating the position of state-level charter school special education director who could oversee early implementation and assist charter schools with the various areas of expertise needed for full implementation.

Findings suggest that across all types of governing linkage, there is considerable variability in the implementation of IDEA in charter schools. Some charter schools have adequate knowledge about IDEA and the IEP process and are delivering special education according to the law. This is particularly true in charter schools that were previously established as traditional schools and converted to charter status. Others are having problems with all or some aspects of the law, but are prepared to try to implement other parts.

Across all states, regardless of linkage, generation of charter law, or number of charter schools open, the overriding characteristic is a lack of knowledge of IDEA and what it means to a charter school, the state department of education, or a sponsoring or local education agency. The lack of knowledge impacts implementation for all parties.

Several of the states have attempted to deal with the charter operators' lack of knowledge regarding special education, but their efforts were not seen as adequate. As noted, Minnesota provides funds to the state's charter school association to hire a full-time director of special education for charter schools. Arizona now requires mandatory training in special education prior to opening a charter school. Even with these adjustments, however, findings suggest that all of the states studied need more rigorous and ongoing information networks.

Procedures for implementing the IEP process varied by charter school although sometimes, such as in Arizona, training was provided by the SEA.

IEP Process

Variability among charter schools and their level of IEP implementation was discussed by many key informants. For some states, the delivery of special education is stipulated in charter school law or regulations. For example, in Connecticut, the charter school law prescribes that the LEA of residence of a student with a disability who attends a charter school is responsible for all costs related to special education for their students who attend charter schools. The student's home LEA is responsible for convening the team that includes the parent, teachers, an administrator, and specialists to perform assessments and carry out the other duties of an IEP team. Despite the clear assignment of responsibility to the LEA by Connecticut law, specific IEP procedures are carried out differently in each charter school. In some cases, the entire process takes place on LEA premises using LEA staff, although LEA specialists often go to the charter school to do student assessments. The charter school is then invited to send a representative to the team meeting. In other cases, the charter school plays a more active role by either completing some of the evaluation components, or hosting the team meeting at the charter school building.

This variability in the IEP process is apparent in other states as well. In Minnesota, a partial-link state, charter schools are given a manual of procedures and can receive training from the SEA if desired, but the actual IEP process is in the hands of the operators. In the no-link states examined for this project, the charter school was solely responsible for carrying out the IEP process. Procedures for implementing the IEP process varied by charter school although sometimes, such as in Arizona, training was provided by the SEA. Findings indicate that, even in total-link states where there are often more regulations or guidelines dealing with the IEP process, there is variability in actual IEP implementation.

Service Delivery Model

The variability in IEP implementation extends to service delivery also. Although charter schools in no-link states have full responsibility for service delivery, some charter schools in these states have negotiated agreements with neighboring school districts for providing special education services. In total-link states, the service delivery is also often negotiated or decided through the contract process.

According to those interviewed across the eight states, special education service is being delivered using traditional as well as innovative models. For half of the states, there was consensus that there had been little observed innovation in special education service delivery. In the other half, informants noted areas of innovation particularly as related to inclusion. Often charter schools were serving students with disabilities in a full inclusion model using smaller class sizes as a means to meet individual student's needs. Some key informants saw this as an innovative practice, but others were concerned about whether the inclusion was meant to serve the students or to follow the school's overall educational delivery model. In some states there were charter schools where consultants were being used to complete the IEP requirements and the regular classroom teacher was delivering nearly all educational services. It was beyond the scope of this study to evaluate specific practices, but these examples illustrate information provided by charter school staff concerning how their procedures for special education service delivery differ from traditional school district practices.

Many interviewed across all states cited examples of new charter school parents not providing accurate information about their child's special education history.

One of the issues that arose in nearly all states was access to student records. Key informants discussed the difficulty charter schools were having getting records from the transferring school district and the impact this had on the IEP process. Although this problem is not limited to charter schools, those interviewed discussed the difficulty this raised for charters in the area of evaluation and services. When the records are delayed or not received, the charter school must often re-evaluate the student to be in compliance with IDEA. The re-evaluations can be costly and difficult if the charter school does not have its own staff to perform the necessary assessments. Charter schools are usually small and do not have access to special education staff who can absorb new students as well as some larger school districts do. Without having the records upon transfer, they are left with less information to use when considering staffing.

A related issue is the role parents or students play in informing charter schools of a student's disability status. Many interviewed across all states cited examples of new charter school parents not providing accurate information about their child's special education history. In many of these cases, parents had been dissatisfied with the child's previous special education program and wanted to avoid placing their child in special education services at the charter school. The withholding of background information, combined with the common delay in transferring records from traditional districts, places charter school staff in difficult positions relative to compliance with the law. The lack of information or inaccurate information is also a barrier to appropriate service delivery.

Array of Services

According to the IDEA Regulations (§300.551), every "public agency"[7] must make available a "continuum of alternative placements" and provide the special education services chosen by an IEP team to meet the individual needs of a student with a disability. Traditional school districts have met this requirement by providing services in a variety of settings both within and outside of the district, through public and private entities. Charter schools in no-link states are in a unique situation when they are considered LEAs and are responsible for making available a "continuum of alternative placements." Not unlike small traditional school districts, charter schools may find that this requirement can create a problem. Small schools or school districts often do not have the capacity to provide a full continuum of placements designed for every intensity of service that students with disabilities may require. For example, many smaller school districts may not have the specialized personnel to serve students with disabilities in low-incidence categories such as visually impaired, deaf, or deaf-blind. To solve the problem of capacity, many smaller school districts join cooperatives[8] where they can share costs and resources with other small school districts. If the charter school does not have a relationship with another charter school, a school district or educational entity, it is difficult to develop the infrastructure necessary to provide an array of placements for all special needs.

Charter schools in some states have started to create their own cooperatives to pool assistance and resources. A successful example of such joint activity is the D.C. Public Charter Schools Cooperative

In states where charter schools are linked to an existing school district or other educational entity, findings suggest this is less of an issue as, in many cases, the sponsoring school district is responsible for providing the services. In Colorado, where charter schools are linked to a school district and in some cases a BOCES, the responsibility for a continuum of placements rests with the LEA and the BOCES. The charter and LEA can negotiate how those services will be provided. This is also true in Florida. However, in Minnesota, North Carolina, and Arizona, the charter is responsible for ensuring students have access to all services and settings prescribed in their IEPs regardless of the charter school's capacity to meet those needs.

Charter schools in some states have started to create their own cooperatives to pool assistance and resources. A successful example of such joint activity is the D.C. Public Charter Schools Cooperative (described more fully in the summary of the DC Case Study later in this document). Strategies such as shared personnel and personnel development activities provide necessary access to the special education infrastructure that many charter schools lack.

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[7] IDEA defines public agency: "As used in this part, the term public agency includes the SEA, LEAs, ESAs, public charter schools that are not otherwise included as LEAs or ESAs and are not a school of an LEA or ESA, and any other political subdivisions of the State that are responsible for providing education to children with disabilities" (§300.22).

[8] "Cooperative" is a broad term that incorporates a variety of entities designed to enable small organizations to cooperate and pool their resources. Examples of cooperatives in the case study states are SELPAs in California, BOCES in Colorado, and the Public Charter Schools Cooperative in Washington, DC. While these cooperatives are similar in that they enable schools to pool resources, they are unique in their origins, roles, and responsibilities.

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Staffing Issues

Many operators' vision of their school did not include serving students with disabilities.

Closely related to providing an array of services is the issue of staffing for special education. All of the states in this study reported a general shortage of qualified special education teachers and related services personnel. The shortage is significant for all public schools, but charter schools in general reported that it is difficult for them to compete with district schools that can offer teachers better salaries, benefits, and job security. Charter schools are utilizing multiple strategies to address the critical shortage of special education professionals, including (a) hiring itinerant special education teachers to supervise general education teachers in inclusive classrooms, (b) hiring retired special education teachers on a part-time basis, (c) contracting with private providers, (d) sharing staff with geographically proximate charter schools, (e) forming cooperatives with a group of charter schools in order to pool resources, and (f) attracting special education professionals with higher salaries or the promise of a more attractive work environment.

These various strategies have positive and negative attributes. For instance, key informants raised questions about the quality and quantity of services provided by part-time or itinerant teachers. Other informants raised concerns regarding the quality of some private contractors currently consulting with charter schools. One state official said:

> *Charter schools think that a consultant doing administrative IEPs covers them. The other serious situation is that charter schools have no access to resources like special ed teachers; yet the law requires a special ed certified teacher to provide services. A certified reading teacher cannot take the place of a certified special ed teacher. Sometimes they provide a special ed teacher for an hour a day, but if the IEP says two hours a day, they often don't change it—or they counsel-out students. Sometimes it is done purposefully; most of the time it is done out of ignorance.*

In addition to the general shortage of qualified special education professionals reported in all the states, charter schools in partial- and total-link states (where the LEA may assign special education staff to charter schools) noted that tensions can arise between district personnel and charter schools. Specifically, if the charter schools do not have input regarding selection and supervision of LEA staff assigned to charter schools, conflicts may arise regarding the alignment of the schools' philosophy and special education service delivery. Furthermore, when LEA staff work in charter schools, the lines are unclear regarding who supervises the LEA staff.

The District of Columbia's Special Education Cooperative is an example of an emerging strategy for charter schools seeking to improve their human capacity by pooling resources with other schools. With support from the DC Public Charter School Resource Center, 13 charter schools joined to form the DC Public Charter Schools Cooperative in 1998-99 to improve special education services and reduce costs through joint and innovative approaches to meeting the needs of their students. The Cooperative performs a wide variety of direct and indirect services for member school staff and their students. One of the most important benefits to

Cooperative members is a productive connection to the special education system. The Executive Director provides support and information for the special education program in each school, and maintains close communication between the charter schools and the local school district. In terms of student services, the Cooperative has increased resources available for students with disabilities in its member schools. For example, it brought charter school operators and service providers together and negotiated reduced rates for members. In 1999, the Cooperative received a grant from the Annie E. Casey Foundation that funded three to five full evaluations of students at each member school during the summer of 2000. The Cooperative is also engaged in a project in conjunction with other community agencies and the local school system to set up a program that will allow member schools to access Medicaid funds. Members see the Cooperative as a vehicle for access to special education expertise, and sharing and learning from each other.

RECURRING THEMES: SERVICE DELIVERY MODELS

Special Education Service Delivery

- In no-link states, individual charter schools are solely responsible for delivering special education. Due primarily to small size, these schools struggle to amass the fiscal and human capacity to comply with IDEA.
- Partial- and total-link states must negotiate with an LEA regarding IDEA, and the environment in which this occurs ranges from collegial to adversarial.
- Lack of knowledge, philosophical differences, and limited human and fiscal resources can hinder charter schools capacity to deliver special education services.
- Special education services are often delivered using traditional methods, although the cases documented some instances of more innovative approaches particularly in the area of inclusion.
- In an effort to meld individual charter schools' missions with the obligation to provide special education, most charter schools provide special education services in inclusive environments. However, some individualization is lost in the process.

Charter School Admissions

- Lack of knowledge, philosophical differences, and limited human and fiscal capacity to meet the obligations stemming from IDEA can drive charter schools to counsel-out children with disabilities.

IEP Process

- The degree to which individual charter schools adequately implement the IEP process varies considerably across the states.

IDEA Implementation

- Charter schools, particularly those located in no-link states, struggle to amass the fiscal and human capacity to deliver a full array of services to children with a variety of disabilities.

Staffing

- Due to a general shortage of qualified special education teachers and specialists, charter schools struggle to hire and retain special education staff.
- Charters are utilizing a variety of strategies to address the shortage of special education professionals (e.g., hiring retired teachers, forming cooperatives, contracting with third party providers).

Accountability For Special Education In Charter Schools

Accountability refers to the policies and procedures that charter schools must abide by as required by federal and state special education and state charter school rules and regulations. While state charter laws release charter schools from some state reporting requirements (e.g., teacher qualifications), these schools are generally obligated to collect and report the same information that traditional public schools must report. Charter schools must submit the same statistical reports regarding students, standardized tests, and budgets that most traditional public schools submit. Charter schools report data regarding special education as part of their general statistical reports and these data generate state and federal categorical funds for special education. Examples include student headcount reports as well as more procedural documents such as IEPs that would be reviewed as part of a state special education audit. In the case study states, general issues emerged regarding data collection and accountability policies and procedures as well as issues specific to charter schools and special education.

. . . charter schools are required to submit essentially the same data and statistical reports as traditional districts.

General and Charter School-Specific Data Collection and Accountability

Findings from case study states indicate that charter schools are required to submit essentially the same data and statistical reports as traditional districts. Examples include enrollment accounting, program accounting, and financial reporting. Half of the states studied require charter schools to submit annual reports with data on a wide variety of issues. However, there is variability in the degree to which schools are required to report data regarding special education. For instance, the Colorado annual report includes specific questions regarding special education student enrollment and service delivery models, but Minnesota charter schools are not required to submit special education data in their annual reports.

An issue raised by key informants in the eight states related to accountability systems and the role they play in retaining charters. Many states require schools to demonstrate students' academic improvement in order to retain their charters. Though states have varying renewal policies, academic accountability is generally a part of most charter school laws. Charter schools in two states expressed concern that, given the accountability associated with charter schools and specifically with high stakes standardized tests, special education students may lower their school's test scores and potentially affect their stability as a school.

When charters and districts essentially share responsibility for special education, there is an inherent tension among those involved in service delivery as to who is ultimately responsible should problems arise.

Monitoring

Some states - in particular, no-link states - are struggling to build the necessary state level infrastructure, including amassing human and fiscal capacity, to adequately monitor special education in charters. Sometimes no-link states provide charter schools some leeway regarding monitoring and compliance audits in their first few years. In partial- and total-link states, actual accountability for special education varies by district or county.

In general, with some variability in specific districts or counties, special education monitoring and accountability in charter schools is perceived to be reactive as opposed to proactive. In every state studied, informants reported that parental complaints are a key stimulus for monitoring. In Colorado and Florida, where charter schools are part of their local district but enjoy varying degrees of independence based upon the negotiated contract, school district staff expressed concern that they are legally responsible for special education in the charters but have only limited control. District staff in these two states expressed concern that if a complaint is filed or an audit identifies areas of non-compliance, the district might be held accountable even though they had limited input or control over special education in the charter schools. Conversely, in Connecticut where charter schools are also part of an LEA and the LEA retains control of special education, charter operators expressed concern that they may be held accountable for special education programs delivered to their students but for which they have limited control. These contrasting concerns highlight the fact that when charters and districts essentially share responsibility for special education, there is an inherent tension among those involved in service delivery as to who is ultimately responsible should problems arise. In Florida, specific districts are reportedly treating monitoring of special education in charter schools as a constructive, as opposed to punitive process, aimed at helping the charter school develop its capacity to deliver special education.

RECURRING THEMES: ACCOUNTABILITY FOR SPECIAL EDUCATION IN CHARTER SCHOOLS

- Charter schools are required to submit the same statistical reports as traditional districts, plus additional reports associated with state charter school accountability processes.
- Charter schools are struggling to understand the plethora of reporting requirements they are obliged to follow, and special education is a component of this struggle.
- There are high stakes associated with reporting in general, and specifically special education reporting that generates additional funds for charter schools.
- States and districts can address the challenges associated with data collection and accountability by providing technical assistance in this area and initially approaching monitoring in a supportive as opposed to punitive manner.

Operational Issues Impacting Special Education in Charter Schools

The preceding sections examined legal and educational issues that influence charter schools' capacity to deliver special education services. However, operational issues pertaining to facilities access and accommodation and the provision of transportation services also potentially impact special education in charter schools. The Project SEARCH team inquired about school facilities and accommodations to determine the extent to which adhering to existing federal and states laws on access was an issue for charter schools.

Facilities Access and Accommodations

Charter schools must comply with federal laws relating to access. This includes Section 504 that prohibits discrimination due to lack of physical access. Under Section 504, a recipient of federal funds "that operates a public elementary or secondary education program" must provide a free appropriate public education to students with disabilities. Section 504 is broader than IDEA in that it includes children who do not meet the specific disability requirements of the IDEA, but it essentially confers the same entitlement to services for students with disabilities.

Understanding the issues for charter schools is particularly important, as many charter school operators are responsible for finding and maintaining the school's building. In the early years of charter school implementation, some operators believed that the waiver of laws meant they were not responsible for an accessible facility and often rented facilities that were not accessible to persons with physical disabilities. However, several states have now attached the accessibility requirement to getting city or municipal approval, thus making it nearly impossible to open a charter school without an accessible building. In all states studied, charter schools were generally considered to be accessible. There were exceptions, but for the most part, charter schools were accessible or had a means to educate a child with a physical disability according to the law.

In two no-link states, there were some issues concerning accessibility, including charter schools that were not providing accessible facilities. The larger question is how can charter schools that most typically have limited access to capital funds but do have responsibility for renting or buying a facility, make their buildings accessible without additional assistance from the state or the LEA. Problems in facility accessibility focused on finding an affordable, accessible facility or making a less expensive facility accessible within the existing budget.

The other issue mentioned by some key informants was finding a facility that provided adequate space for special education services. The cost of renting or buying a facility can mean that a school is smaller than desired and lacks individual rooms for special education services.

. . . while special education transportation is not a major issue at this time, it may emerge as an issue as money gets tighter and those responsible for transportation payment become more involved in deciding transportation issues.

Transportation

Federal law stipulates that if transportation needs are specified on the IEP, the educational entity responsible for implementing the IEP is responsible for that transportation. However, in the case of charter schools, responsibility for transporting all children may rest with the charter school, or it may rest with the sponsoring or resident school district. Transportation findings for this study focus on determining who is responsible for transportation and documenting issues specifically related to transporting students with disabilities at charter schools.

As is the case in other areas relating to special education, the linkage between the charter school and either the sponsor or the resident school district determines who is responsible for transportation costs and services. For example, in Florida, North Carolina, and Arizona—no-link states—the charter school bears the responsibility for transportation of students with disabilities. However, some charter schools also receive transportation dollars in the same way LEAs do; sometimes charter schools receive a higher reimbursement thus offsetting some of the transportation burden. Findings suggest that for total-link states, the responsibility rests with the sponsoring entity or the resident school district.

Across the case study states, there are very few issues relating to the transportation of students with disabilities. In Colorado, where regular transportation to and from school is the responsibility of the charter school, there was some concern that charter schools may not have the resources to provide transportation to students with disabilities as most parents transport their children to charter schools. A unique issue arose for charter schools that serve only children with disabilities and, as a result, draw from multiple districts. Who is responsible for the transportation of these students? To date, the student's district of residence in Colorado has provided transportation for these students. However, districts that offer similar specialized programs are reluctant to continue funding transportation to a program out of their district.

Key informants in multiple states projected that, while special education transportation is not a major issue at this time, it may emerge as an issue as money gets tighter and those responsible for transportation payment become more involved in deciding transportation issues. For example, in states where charter schools are not required to provide transportation, the absence of transportation may arise as a barrier to enrollment that disproportionately impacts less affluent families.

RECURRING THEMES: OPERATIONAL ISSUES

- In nearly all states studied, locating, buying or renting, and maintaining the school facility is the responsibility of the charter school.
- While facility management is clearly a significant issues for charter schools, the case studies did not reveal any unique issues for children with disabilities pertaining to facilities access and accommodations.
- There were no special education transportation issues that could be deemed major at this point.

Technical Assistance For Special Education In Charter Schools

. . . a great deal of variance emerged in the types and amount of technical assistance available to charter schools.

Technical assistance, and specifically the lack of adequate and appropriate technical assistance for charter operators delivering special education, was a theme that dominated nearly every aspect of the Project SEARCH findings. For purposes of this study, technical assistance refers to any type of help, (e.g. written documents, videos, electronic resources, in-person training or consultation), that adds to the knowledge and capacity of those individuals involved in charter schools to implement special education appropriately. Technical assistance typically takes the form of either active training or more passive activities such as disseminating information through manuals and, increasingly, websites. In general, states and districts provide charter schools with some technical assistance regarding administrative obligations and instructional practices.

Across the state case studies, a great deal of variance emerged in the types and amount of technical assistance available to charter schools. Opportunities to provide charter school operators with technical assistance pertaining to special education occur during the application phase, the initial implementation phase, and the operation phase. Ideally states develop a technical assistance infrastructure that supports charter schools. In practice, while districts and states are allocating what appear to be significant resources to multiple forms of technical assistance for charter schools, charter operators perceive that they are not receiving enough or appropriate technical assistance. Specifically, charter schools need technical assistance regarding special education administrative and instructional requirements.

Special Education Technical Assistance

Most states provide charter operators with at least some information about special education during the application phase. The information is typically a "Question and Answer" memorandum regarding special education, or a section of an application manual. In Connecticut, Florida, and Minnesota, applicants receive more active technical assistance from the SEA regarding special education during the application process in the form of consultations with, or presentations by, special education experts.

More than half of the state departments of education and state resource centers have developed guides or how-to manuals for charter operators that contain varying amounts of information about special education. For instance, the Florida Charter School Resource Center produces a document as part of the new charter operator manual that includes sections titled "10 ESE Steps for Florida Charter Schools," and "Special Education Do's and Don'ts for Charter Schools." A number of states have also developed web pages that provide information about charter schools in an accessible and efficient manner. Once schools are actually chartered in the states of Connecticut and North Carolina, charter personnel attend a orientation training that includes information about special education.

Charter schools in partial- and total-link states receive the majority of their general and special education technical assistance from their LEA. However, the degree to which charter schools are proactively informed and included in district technical assistance varies by county or district. Informants emphasized that regardless of the manner or quantity of technical assistance pertaining to special education that the state or districts provide to charter schools, these schools need more assistance with special education administrative and instructional issues.

A particularly promising practice that emerged in a few states and school districts is offering targeted charter school technical assistance. These targeted trainings are reportedly effective because they take into consideration charter schools' knowledge level. This is in contrast to simply including charter schools in standard district or state technical assistance training sessions geared toward experienced district staff. Other state departments of education assign staff to provide specialized special education technical assistance to charter schools. The staff are either employees of the state such as in Arizona and Connecticut, or sponsored by the state but employed by an outside entity such as the charter school resource center in Florida.

With the exception of Connecticut, which did not have a resource center or similar entity at the time of data collection, all of the case studies documented the value of charter school resource centers for general technical assistance and in some states, specifically technical assistance pertaining to special education. In addition, third parties such as private consultants and education management organizations play a key role in directly providing charter schools with special education technical assistance or with access to technical assistance.

With the exception of Washington, DC, the case studies did not document any evidence that charter schools are pooling resources for the purposes of purchasing technical assistance.

Training Requirements

Most states do not require that charter school operators or staff participate in training in the area of special education. Rather, training is often an option for prospective operators during the application process. When it is required, it consists of one or two days of generalized training covering all aspects of special education. The exceptions at the time of the interviews were Connecticut and Arizona, where all charter school applicants were required to attend training on special education laws and procedures. However, in all states, the recurring theme was that the optional and mandatory training was not adequate to meet the increasing need for information on special education and its implementation in charter schools. Many of the states were aware of the issue and were in the process of reviewing their training at the time of the interviews.

Issues concerning who was responsible for training charter school personnel and who would pay for the training were apparent in nearly all the states. LEA officials would often provide the training in total-link states. However, the logistics of the training for charter schools could sometimes be an issue. SEA officials spoke of the limited training resources provided by their legislatures. Often, officials were adding training costs to an already tight resource allotment for charter operators who needed considerably more in-depth training than their traditional school district personnel. Some states, such as Arizona, provided all school districts with special education specialists who are available as consultants to help with a myriad of issues. However, there has been only a slight increase in personnel in this department despite the addition of over 400 charter schools.

In states where training was provided, charter operators discussed the need for training that was understandable and quickly applicable. There was concern that special education had a language of its own that was often confusing for new operators. Even when orientation was provided, new operators usually came away confused. As one charter operator explained:

> *When I look at the application, I think I understand. Then I am invited to an IDEA conference. As a regular education person with an administrative degree, it sounded like Greek to me. The [trainers] must give opportunities for questions. I am unsure of how terms such as "child find" relate to my*

> *charter. Is it the district's responsibility or the charter's? What is the responsibility? There is no cut and dried answer. We left with more questions than answers. It all added to our fears.*

As mentioned previously, Minnesota has addressed this issue by funding a charter school special education director position, providing an expert who can talk one-on-one with the operators to address individual issues, and also provide group training sessions.

RECURRING THEMES: TECHNICAL ASSISTANCE

- Charter operators' lack of knowledge and states' lack of infrastructure to support charter schools' technical assistance needs were recurring themes throughout every aspect of Project SEARCH's findings.
- Charter schools need additional technical assistance on an on-going basis in the area of special education.
- States, districts, and resource centers utilize multiple means to deliver technical assistance to charter schools: passively via guides and websites, and actively in the form of annual meetings and targeted technical assistance.
- Technical assistance is particularly helpful if it is targeted at charter schools as opposed to a general district audience.

V. Critical Policy Tensions

In addition to the preceding specific findings, the second phase of Project SEARCH revealed two central tensions or policy conflicts that underlie many of the issues that were identified through this research. These are: a) conflict between the central premise of autonomy and special education regulation, and b) conflict between the requirement for team decision-making regarding a child's needs and the primacy of parental choice. They constitute major elements of the climate within which charter schools are struggling to meet their obligations to implement special education.

The "Tensions" Between Charter Schools and Special Education:

1) Special education is highly regulated, while charter schools value autonomy;

2) IEP teams make decisions for students with disabilities, while charter schools are based on parental choice.

Balancing Procedural Regulations and the Goal of Autonomy

Deregulation and autonomy are two defining principles of the charter school movement. These principles are realized in state charter school laws that typically free charter schools of a variety of state and or local education rules and regulations. However, because charter schools are publicly funded schools, they are required to implement federal special education provisions stipulated by IDEA, Section 504, and the ADA. The formal obligation of SEAs and their LEAs to ensure that students with disabilities are afforded their full legal rights does not permit the level of autonomy that charter schools are typically given in other educational areas. Hence tension arises between special education rules and regulations and charter schools' basic principles.

Charter schools must align their policies and practices with the IDEA provisions regardless of whether such requirements are contrary to their fundamental mission. For instance, while some states allow charter schools to hire uncertified teachers, federal law requires that all special education personnel must be "qualified"—in other words, certified. Other examples include state reporting requirements that are driven by federal statute and designed to gauge the extent to which states are ensuring that the needs of all students with disabilities are being addressed. Charter school proponents argue that excessive regulation stifles innovation and can force schools to adopt a "one-size-fits-all" model as opposed to permitting a variety of curriculum or instructional approaches to flourish from which parents may choose what they consider to be the best option for their children.

Negotiating Parental Choice and Special Education Team Decision Making

. . . adherence to parental choice remains a central tenet of the charter school movement. This is in direct conflict with the notion of shared decision-making that operates within special education.

A fundamental goal shared by both special education and charter schools is to achieve a match between a child's educational needs and his/her educational program. Special education achieves this through the IEP process that utilizes team decision-making that includes parents and professionals. This team, comprised of parents and professionals, collaborates to define an individual child's special education needs and develop a set of goals and strategies to meet those needs. The team is charged with making appropriate decisions regarding the nature and intensity of special education and related services as well as the setting in which these are to occur. The results of the decisions are reflected in the IEP.

In practice, teams can vary markedly in terms of the balance of power between professionals and parents. Teams may also reflect certain philosophical orientations regarding how best to educate children with disabilities. Notwithstanding these differences, the fundamental policy intent is that decisions should be made that benefit the individual child and a team should make them. Arrays of legal procedures have been created centered on the IEP to ensure that the child's right to an appropriate education is protected. The team-decision process also includes the identification of the place or setting where the child should receive the services. While federal law gives preference to the special education services being provided in the "Least Restrictive Environment" (LRE) or within the general education class, the most appropriate determined setting can be a specialized school or program. While parents play an integral role in making decisions regarding goals, related services, and placements, it is the team that has the final authority to place a child in a school or program and determine the extent of the special services he or she will receive. If the team cannot reach consensus, there are procedures beginning with mediation that are to be followed to resolve disputes.

In contrast, charter schools rely on parents to make educational decisions for their children. For charter schools, parental choice is based on the concept of the market, the notions of competition and choice. Specifically, parents have the right to select the type of education they want for their child and the "system" should provide them choices or options. Because charter schools have been created to offer educational choices, they operate under the reasonable assumption that parents can and will act in the best interests of their child concerning education. They assume that parents should be able to freely make choices about where and how they wish to educate their child. In some states, complete parental choice is limited by state or district enrollment guidelines. Nonetheless, an adherence to parental choice remains a central tenet of the charter school movement. This is in direct conflict with the notion of shared decision-making that operates within special education, which imposes the obligation on public schools to ensure that the rights of the individual child with a disability are preserved. Included are both those who have been identified as having a disability and in need of special education and related services as well as those who are suspected of having a disability. Public education authorities are charged with the legal obligation to protect the child notwithstanding the parent's right to choose.

This conflict between a parent's right to choose and the requirement that a team decide for a student with a disability becomes evident in an array of issues identified by charter school operators and supporters as well as special educators. For charter school operators, understanding the procedures and negotiating the various legal requirements become paramount. For special education authorities, the chief concerns are centered on accountability for each identified child in terms of adherence to the IEP and ensuring that all eligible students are appropriately identified and served.

VI. Policy Recommendations

The previous sections described the cross-state findings on aspects of special education in charter schools within the larger state infrastructure that influences charter schools' operations; the sections also identified two underlying policy tensions inherent to delivering special education in charter schools. The eight state-level case studies revealed numerous issues and problems that need attention in order for charter schools to fulfill the responsibilities emanating from federal special education statutes. The resulting recommendations emerged from the eight case studies and should assist states, districts or other charter authorizers, and individual charter schools increase their capacity to either support or actually deliver special education. Because states have variable charter school policies and procedures, the individual entity positioned to implement the vast majority of the recommendations is highly dependent upon state charter school and special education laws. In most cases, the recommendations here are aimed at agencies and organizations responsible for granting and supporting charter schools (i.e., SEAs, LEAs, institutions of higher education, municipalities and charter school resource centers).

Much remains to be done to clarify policies and expectations in terms of special education in charter schools. The chief task is to maintain a critical balance between the legal autonomy of charter schools and the prescribed guarantees of special education. These policy recommendations attempt to address both the larger programmatic and fiscal issues as well as more specific elements of current policies.

Governance Related To Special Education In Charter Schools

Recommendation #1

The status of charter schools as local education agencies needs to be reconsidered for purposes of special education. Individuals, agencies, and organizations that interface with charters (e.g., state and district level policy makers and charter authorizers) need specific policy guidance regarding a charter school's LEAs' status as it applies to legal responsibilities under IDEA and related state laws.

- Charter schools status—independent LEA or part of an LEA—has complex legal implications in terms of special education beyond what charter advocates typically recognize when they seek LEA status in their drive for autonomy. This partially includes paying for private residential placement and being legally responsible for consequences associated with not complying with federal statutes that protect children with disabilities.

- A more appropriate term that better characterizes the status of charter schools for the purposes of special education is "independent public school."

- The relative independence of charter schools varies according to the degree of autonomy afforded by individual state charter school laws. Whether a charter school is part of an LEA or its own independent LEA, all parties involved must understand the legal status and full implication relative to responsibilities for special education.

Recommendation #2

States need to develop explicit processes to ensure that authorizers and applicants/operators have assigned roles and responsibilities regarding children with disabilities.

- States do not necessarily need to establish legislated roles and responsibilities related to special education in charter schools—this might hinder charter school flexibility which is central to the larger charter school mission. However, states should work with all charter authorizers to provide clear policies and procedures that help charter schools to comply with IDEA and that outline the specific roles and responsibilities for special education.

- The charter application and contract processes provide the key points of contact for charter authorizers and charter operators to negotiate and document the roles and responsibilities associated with special education.

Recommendation #3

During the authorization process, charter authorizers need to ensure that operators will have the human, fiscal, and organizational capacity to fulfill their special education responsibilities prior to opening.

- The SEARCH case studies demonstrated that mere written assurances to address special education do not necessarily translate into charter schools having the capacity to deliver special education.
- Examples of evidence that charter schools have amassed the necessary capacity to fulfill their special education responsibilities might include (a) budgeted funds for a qualified special education teacher and related services personnel, (b) an executed contract with an outside special education infrastructure to provide special education services, (c) procedures for conducting evaluations and developing IEPs, or (d) a plan for accommodating special education in the charter school's model.

Recommendation #4

Authorizers should permit charter schools to consider a variety of options for meeting their special education responsibilities, and not rely upon a fixed set of prescriptive procedures.

- Determining the manner in which charter schools deliver special education typically requires that charter schools negotiate an agreement with one or more outside entities that may include their authorizer.
- The SEARCH case studies revealed some inherent power differentials in the negotiation process. In some states, the process is perceived to favor districts while in other states, it seems to favor charter schools. An explicit mediation or appeal process dictated by state policy may facilitate more balanced negotiations.

Special Educational Service Delivery in Charter Schools

Recommendation #5

State education agencies and charter school authorizers should be vigilant about either charter schools or traditional public schools inappropriately influencing parental decisions to send students with disabilities to charter schools.

- Lack of knowledge regarding a wide array of issues pertaining to special education and concerns about the fiscal implications of enrolling particular children with disabilities emerged as some of the root causes of counseling-out children with disabilities.
- Improved knowledge and relationships between charter schools and their LEA or other sending school can support appropriate referrals of students with disabilities to charter schools.

Recommendation #6

During the initial start-up (i.e., one to three years), charter schools should affiliate with a special education infrastructure.

- Traditional districts typically maintain a special education infrastructure that supports special education services and procedures. LEAs employ special education administrators who have expert knowledge and experience in all aspects of serving students with disabilities. Charter schools for the most part are too small to include this position in their budgets.
- Charter schools can obtain access to an infrastructure in a variety of ways such as through the local education agency, an intermediate administrative unit, a cooperative, a community based non-profit, or a comprehensive education service provider. Affiliating with an existing infrastructure or creating one in which a group of experts provides guidance can enable charter schools to fulfill their special education responsibilities. The special education infrastructure will provide individual charter schools with fiscal, organization, and human capacity that is virtually impossible to amass in a single school.
- Even if charter schools have not yet enrolled any children with disabilities, or expect to serve only a small number of them, it is essential that they be proactive rather than reactive regarding affiliating with a special education infrastructure.

Accountability For Special Education In Charter Schools

Recommendation #7

States and charter authorizers should develop accountability systems that allow for multiple means to assess student progress—including measures that assess progress of children at risk and children with disabilities.

- Charter operators expressed concern about the interaction of high stakes accountability central to the charter movement and their responsibility to educate children with disabilities, given their limited fiscal, organizational, and human capacity.
- Accountability systems should not serve as an incentive for traditional or chartered schools to counsel children with disabilities into or out of a chartered school.

Recommendation #8

States and charter authorizers need to establish specific policies and practices to incorporate charter schools in state special education data collection and monitoring. The policies should incorporate charter schools' legal status and provide some allowance for the start-up period of new charter schools.

- Charter authorizers need to explicitly inform charter school operators of the various data collection requirements that emanate from IDEA and related state policies.
- States should develop a network of monitoring mentors whereby an experienced special educator assists a charter school prepare for monitoring audits.
- Consequences for non-compliance should be clearly explained to charter school operators before they are granted a charter. Consequences should, in most cases, begin with enhanced technical assistance and mentoring and then move to more punitive actions.

Operational Issues Impacting Special Education In Charter Schools

Recommendation #9

States should review their charter school facility and transportation policies and clarify the legal implications for meeting special education responsibilities.

- Given the fact that many charter schools have relatively limited facility or transportation budgets, many charter schools are in non-traditional locations and do not provide transportation. Charter schools need to be informed about their obligation to assure that neither their facility nor their transportation policy hinders access for students with disabilities.
- Project SEARCH revealed that many charter operators did not fully comprehend their obligation to provide transportation if it is included in students' IEP as a related service, or their obligation to make their facilities physically accessible to all students who enroll.

Technical Assistance For Special Education In Charter Schools

Recommendation #10

States should develop a technical assistance network to provide charter schools with assistance in developing the capacity to deliver special education. States can foster the network by providing personnel or funds for other agencies such as charter school resource centers or cooperatives to provide technical assistance.

- Charter operators need to increase their knowledge regarding issues such as special education funding formulas, IDEA rules and regulations, admissions, IEP development, service models and classroom level service delivery. Early and ongoing targeted technical assistance will meet charter schools evolving needs related to special education. Charter authorizers can provide technical assistance during the application and early start-up and then on an on-going basis.

- Charter authorizers should facilitate a mechanism for charter schools to continuously share information and network with each other regarding special education - including informing charter schools of regional and national charter school networks that disseminate helpful information. Providing information electronically offers a low-cost, efficient means to develop a technical assistance network.

VII. Conclusions

Special education is highly regulated at multiple levels. Within this context, the data from eight state-level case studies of special education in charter schools revealed that charter schools are struggling in multiple ways to develop the capacity to deliver special education. The critical need identified through this study is the development of new or improved strategies that will avoid problems relative to the implementation of special education in charter schools. Specifically, states must enhance their capacity to systemically support special education in charter schools and, at the same time, individual districts and charter schools must enhance their organizational, fiscal, physical, and human capacity to deliver appropriate special education programs within charter school settings.

Findings of this study emphasize that a clear understanding of the legal status of a charter school and the nature of its linkage to a traditional LEA relative to state law and policy is essential for everyone involved in the design, approval, operation, and monitoring of charter schools. An important contribution to the field developed through this study is the typology of linkage. The link between a charter school and the local district structure, sometimes delineated specifically by state law, defines most aspects of the charter school's responsibilities for special education.

The study documented that attempts to develop the multiple types of capacity are hindered by two inherent policy tensions that underlie special education in charter schools: balancing the procedural regulations of special education with the charter school goal of autonomy, and negotiating the tension between the team decision making called for in special education laws with the primacy of parental choice that characterizes the charter school movement. Project SEARCH's recommendations aim to address some of the specific challenges or barriers impeding charter schools' capacity to deliver special education. However, Project SEARCH did not attempt to propose solutions for the underlying policy tensions, as these issues are endemic to the nature of the two systems involved -

disability policy and charter school policy. They constitute the basic policy climate surrounding the implementation of special education in charter schools, and these inherent tensions must be kept in mind when developing federal, state, and district level special education policy and charter school policy as they have significant implications for practice.

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Appendix A

PROJECT SEARCH METHODOLOGY

Project SEARCH consisted of two distinct yet complementary investigations. The first project activity, completed in February 1999, was a policy scan of 15 states with charter schools in operation for at least one year. The purpose of the policy scan, which involved interviews with key informants in the 15 states as well as a review of relevant documents, was to verify and explore the major policy issues to be examined in the project case studies. It also served as a pilot to develop criteria for selecting a sample of states for the primary study and to refine the focus of the data gathering protocol.

A single overriding research question guided Project SEARCH: What policies and practices facilitate the capacity of charter schools to provide special education services? Embedded in this broad question are specific questions regarding where and how special education fits into state laws and regulations, the charter application process, school governance, finance and facilities, staffing, technical assistance, service delivery, data collection and accountability, transportation, and finally, the charter school's mission. These questions served as the basis of data collection for the initial 15 state policy study and the subsequent case studies that provide rich insight into which state, district, and school level policies and practices influence charter schools' capacity to deliver special education.

A report based upon the findings of the policy scan titled: *Charter Schools and Special Education: Balancing Disparate Visions: An Investigation of Charter Schools and Special Education in Fifteen States* (Rhim & McLaughlin, 2000) is available online at www.nasdse.org/project_search.htm.

The second and principal research activity consisted of in-depth case studies of special education policies and practices in charter schools in seven states. The seven case study states were: Arizona, California, Colorado, Connecticut, Florida, Minnesota, and North Carolina. The state sample was drawn purposefully (Miles & Huberman, 1994, p. 27) in order to reflect maximum variation among the individual states based upon:

- The length of time charter schools have been operating in the state;
- The number of charter schools operating in the state; and
- The degree of autonomy granted charter schools from their LEA by the state charter school law.

A case study of the District of Columbia analyzing the design and implementation of a special education cooperative by charter schools was added as a complement to the seven in-depth state case studies.

CASE STUDY DATA SOURCES AND DATA COLLECTION

In 1997 and 1998, the U. S. Department of Education funded two studies with a specific focus on special education in charter schools. A two-year study (1997-99), funded through the Charter Schools Office under Title X of the Elementary and Secondary Education Act, studied a sample of 32 charter schools to examine ways they are working with students with disabilities. The second study funded by the Department is Project SEARCH, a field-initiated study under the Office of Special Education Programs (OSEP) of which this report is a part.

Guided by the parameters of acceptable practice for case study research (Miles, & Huberman, 1994), the Project SEARCH research team designed a specific case study plan for each of the individual states. The data sources for the case studies were documents, interviews and informal school visits. Data were collected over the course of an 18-month period beginning in the spring of 1999 and ending in the fall of 2000. Data collection strategies included reviewing primary and secondary documents, conducting individual face-to-face and telephone interviews, focus groups, small group meetings, and charter school site visits. The large quantities of diverse data were coded and sorted by individual Project SEARCH team members according to 12 key areas that formed the basis of the interview guides and provided the framework for analysis. The key areas of analysis were:

- State charter law and regulations concerning special education
- Application process and contracts
- Facility access and accommodations
- Governance for special education
- Fiscal arrangements
- Service delivery models
- Reporting and accountability
- Staffing
- Transportation
- Adherence to mission and philosophy
- Technical assistance needs and strategies
- Emerging issues

Once completed, the case studies served as the database for the cross-state analysis. Based upon the findings in the individual states and the District of Columbia, crosscutting themes were identified, explored, and synthesized in order to produce comprehensive study findings. The cross-state findings subsequently served as the basis for developing a set of policy recommendations geared towards assisting charter schools develop the capacity to deliver special education services.

DATA RELIABILITY AND VALIDITY CHECKS

Project SEARCH team members conducted two distinct levels of checks to verify the reliability and validity of the individual case studies and the cross-case analysis findings and subsequent recommendations. The first level consisted of a standard member check wherein the case studies were distributed to key informants in each state in order to check for accuracy. In each of the seven states, between five and nine study participants were invited to review and comment on the case studies. Across all seven states, a minimum of four reviewers provided feedback before the cases were finalized.

In order to check the reliability and validity of the cross-state findings and recommendations, Project SEARCH researchers conducted a series of meetings at which case study findings and recommendations were presented for review by key policy actors. The meetings were designed to obtain input from a wide variety of individuals actively involved with charter schools or special education at the federal, state, and district level. In total, approximately 50 individuals reviewed the study findings and recommendations. The majority of the comments centered on clarifying and expanding the findings as opposed to more substantive feedback regarding the validity of the outcomes.

Appendix B

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Appendix C

Case Study Executive Summaries

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Directors of Special Education.

Project SEARCH

Arizona Case Study Executive Summary[1]

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Arizona Case Study Methodology

Project SEARCH researchers conducted eight in-depth case studies of special education policies and practices in charter schools between January 1999 and September 2000. States were chosen as study sites to represent certain points on a continuum in three areas: length of time charter schools have been operating, the size of the charter movement in the state, and the degree of autonomy granted charter schools from their LEA for purposes of special education. Arizona represents a second-generation charter school state having passed its charter law in 1994. It has the largest number of charter schools in the nation with over 400 schools in operation in Fall 2000. Arizona is a no-link state where charter schools are considered local education agencies.

Arizona Case Study Finding Related to Special Education in Charter Schools

The key areas that Project SEARCH investigated were: state charter laws and regulations, charter applications and contracts, facilities access and accommodations, governance structure, finance, educational service delivery, data collection and accountability, staffing, technical assistance, transportation, adherence to philosophy and mission, and emerging issues. The following is an executive summary of the Arizona case study findings in these areas.

I. STATE CHARTER LAWS AND REGULATIONS

- Arizona's charter school law is considered one of the most open in the United States. Charter schools are designated as LEAs and, as such, bear the same responsibilities as other traditional school districts in the area of special education. Non-profit and for-profit organizations or individuals may open charter schools in Arizona.
- Charter schools may be newly formed or they may consist of all or any

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[1] This document is the report of one component of a research study funded by the U. S. Department of Education, Office of Special Education (Grant #H324C980032-99). The study, called Project SEARCH, examines policy and practice related to special education in charter schools in seven states and the District of Columbia. This report and all other documents pertaining to this study are available online at: www.nasdse.org/project_search.htm.

portion of an existing school. Charter schools may be sponsored by one of three educational entities that have control over the granting of charters: (a) the State Board of Education, (b) the State Charter Board, or (c) individual school districts. There is considerable flexibility in the interpretation of the charter school law. However, the law does stipulate that charter schools must comply with "all federal and state laws relating to the education of children with disabilities in the same manner as a school district" [Section 15-183].

- Other than a direct anti-discrimination statement concerning enrollment of students with disabilities, Arizona's charter school law only specifies that charter schools must implement federal and state special education laws. The law is interpreted to conclude that the charter school is the responsible party in the implementation of all aspects of the federal law governing special education services, the IDEA.
- Though the charter school law is not specific about what will constitute grounds for revocation, one of the chartering entities, the State Board of Charter Schools, has specifically stated that failure to comply with state, federal, or local laws will result in revocation. The state education agency (SEA) has been clear that it will inform the chartering entity if the charter school is out of compliance with the federal and state laws concerning special education.
- The existing charter law appears to have little direct effect on the implementation of special education. The lack of specificity in the charter law and the operators' lack of knowledge about special education requirements do have an impact on the implementation of special education and operators' perceptions of their responsibilities in this area.

II. Charter School Applications and Contracts

- The Arizona charter school law stipulates a number of items that must be included in an application. None of items refer directly to special education or related services. However, the prospective charter school operator must sign "statements of assurances" in the charter application that are required by law. Two of these are related to special education. One assurance is in relationship to compliance with state laws "related to the education of disabled pupils" and the other is a direct reference to the transportation of students with disabilities.
- Though all charter schools must include the assurances required by regulation, charter schools can be sponsored by three different educational entities and there is some variation in how these entities approach the application process. At this time, both the State Board of Education and the State Charter Board require applicants to address special education

delivery.

- Charter school sponsors can require more information than is stipulated by the law. As the charter school application process has evolved, so have the requirements on the applications and the training provided in conjunction with the application. Sponsoring boards now provide training for new operators prior to opening the schools, explaining responsibilities in meeting IDEA and other state and federal laws and regulations concerning students with disabilities.

- Since charter schools are considered LEAs, they are expected to have policies and procedures in place for special education and to be knowledgeable about the related ancillary areas. Understanding how the various policies intersect (e.g., Title I, funding, reporting, rules for assessments) is often difficult for charter school operators who have limited exposure to special education. The SEA has provided a starter handbook to address some of these unwritten procedures. However, most study participants reported that charter operators' knowledge about special education prior to the opening of their school was insufficient.

III. FACILITIES AND ACCOMMODATIONS

- The charter school law addresses facility access and accommodations somewhat indirectly. Charter schools must be approved by the city prior to opening. The city's code department is responsible for ensuring that the building has met handicapped accessibility requirements. Consequently, the issue of access is less directly related to special education than it is to Arizona building requirements.

- Respondents agreed that facility accessibility was not a big issue in Arizona. However, there have been a few lawsuits over this issue. All respondents agreed these situations were rare and credited the building requirements for playing a major role in accessibility enforcement.

IV. GOVERNANCE STRUCTURE AND RELATIONSHIPS BETWEEN DISTRICTS AND CHARTERS

- Arizona's law designates charter schools as their own LEA. Some operators and educators are unclear at times about what that means for implementation of various laws and regulations; however, to date, the SEA and other entities have supported the notion that charter schools are independent from any relationship with other school districts. The independence is also in the area of special education. The choice to have a relationship with a local education agency rests entirely with the charter school.

- There is some evidence that traditional school districts and the associations that represent them are less than willing to cooperate with charter schools. There is little sharing of information or of policy documents that could assist the charter schools in implementing IDEA or other disability-related laws. Some participants discussed how some organizations refuse to share information with charter schools or allow them to buy materials from their organization. Others saw a "cottage industry" emerging to help charter schools meet needs for which traditional school districts already have an infrastructure developed over many years.
- Though some operators are still unclear about whether they have to provide special education, it appears that the confusion is over whether charter schools have to provide any special education service rather than whether a local school district has the responsibility.
- With special education the sole responsibility of the charter school, there appears to be statewide variability in its implementation. Some charter schools are diligent about putting their policies and procedures in place, have hired special education directors or consultants, and have provided services in the manner intended. Other operators voice opposition to IDEA from a philosophical point of view and see the law as an intrusion on their right to run an independent school. There are other operators who have formed new directions in the implementation of IDEA, using the student learning plan as their guide.
- Due to the no-link governance model, special education has little impact on the relationship between traditional LEAs and charter schools in Arizona. There is general distrust between the two educational entities, but this has more to do with the competitive nature of the relationship than it does program issues such as special education.
- Arizona has no special education administrator requirement for charter schools. However, some charter operators, especially those with a number of individual schools, have chosen to hire a special education director. Retired directors of special education often serve in this capacity, either as salaried special education directors or as consultants providing administrative services. In addition, some sponsoring school districts have hired management companies to fill the function in the area of business management.
- School districts that sponsor charter schools are in a unique position, as they often charge a fee for business management services. Though there are only a handful of school districts who do sponsor charter schools, there is no uniformity among them; this is in sharp contrast to the two boards that have similar applications and requirements. Often the charters rely on their sponsoring school district to assist in providing information about special education rather than hiring a special

education administrator.

V. CHARTER SCHOOL FINANCE

- Arizona charter schools are autonomous educational entities that receive their funding directly from the state or federal government if they are sponsored by one of the two state boards. The small number of charter schools sponsored by local school districts receive their funds through those districts. As a result, most charter schools must apply for funds, manage the application and distribution of funds, and conduct all record-keeping tasks.
- Arizona students are funded through a weighted formula. School districts and charter schools receive the base amount for each child times a weighted amount that is determined by their disability or need status. Students in kindergarten through eighth grade receive different amounts of base aid depending upon their grade level. The weight is higher for students with more severe disabilities and less for those with mild disabilities. It is on this figure, calculated by formula, that the state funding is based for the entire year. The money goes directly to the school based on the December census. If a student transfers to another charter school or school district after the 100th day, the school in which he was counted keeps all of the money. Once a charter school or school district receives its weighted funding package, it is free to spend the money without direct oversight.
- Some school districts believe they see a pattern of students with disabilities returning to the traditional public schools after the 100th day. There is a provision in Arizona regulations, however, that allows school districts or charter schools to receive compensation for students with disabilities who were not served properly at their former school of attendance. If it can be proven that the school did not provide services stipulated under the IEP, the charter school or school district must either provide compensatory services or pay the parent or educational entity now serving the child.
- In principle, charter schools and traditional school districts receive the same base funding. However, the time in which charter schools and traditional school districts receive the funding and the enrollment on which it is based are different. Traditional school districts have an enrollment history so the school's per pupil base funding is calculated upon the previous year's enrollment. Charter schools begin with no enrollment history and are asked to estimate the number of students (all students - with and without disabilities) they believe will be attending the school. They are provided funds for these students based upon the estimate and this becomes the core of their annual budget. If the estimate differs from the actual enrollment figures, they must reimburse the state for any excess payments they have received within

the year.

- Special education funding disbursement also differs depending upon whether the school is a charter school or a traditional school district. Charter schools receive special education funding in three-month cycles. The school submits the October child count and receives their special education state funding three months later. The school has to budget special education from its general revenues until that time. If the school knows its special education count on the first day of school, it can get funds on the 40th day. It cannot request any special education funds, however, until the student is enrolled and on an IEP. This differs from traditional school districts where federal funding for special education is one year behind. Traditional school districts receive their state and federal special education funds based upon the enrollment figures of the previous school year, but are in a position to have funds available to them at the start of each school year.

- Federal dollars are disbursed to both charter schools and traditional school districts in the same manner. The federal dollars come to the charter school or school district one year after the child count has been submitted. School districts, having been in operation for many years, have a more consistent federal education payment each year (although not based on funding needs of the current school year). Newly opened charter schools must wait at least 40 days, or in most cases three months, to receive state funds. Federal regulations require that federal dollars be disbursed to a new or expanded charter school within tight timelines. If the school overestimates its enrollment and underestimates the number of special education students, it will need to reimburse the state for the base fund estimation; however, it may have used the money to pay for special education while waiting for special education funding.

- Charter schools have the same reporting requirements in most areas as traditional school districts. The biggest differences are in the areas of transportation and capital levy funds. In both cases, charter schools have more flexibility in how the money is spent. Some study participants suggested that reporting requirements played a role in charter schools' refusal to apply for federal funds. As many as 40 % of Arizona's charter schools do not apply for federal special education funds. Some of these schools still believe that by not applying for the funds they are exempt from IDEA. The boards and sponsoring school districts have tried to educate the charter school operators about how IDEA operates.

- Financial support has particular urgency in Arizona where charter schools are considered LEAs with regard to special education services. Many of the participants reported the fear charter school operators have of an expensive special education student bankrupting the school and the operators personally. They voiced their concern that the fear has led to, and will continue to lead to, IDEA noncompliance.

- Many of the charter schools in Arizona are run by for-profit businesses. There was little evidence that the profit status was a large factor in special education financing. There seemed to be a larger distinction between charter schools that were converted from an existing school and newly formed schools. Many of the conversion schools were formerly private for-profit schools and had special education policies and procedures in place upon conversion.

VI. Educational Service Delivery

- The Arizona state charter school law stipulates that "all eligible pupils who submit a timely application, unless the number of applications exceeds the capacity of a program, class, grade level or building," shall be enrolled (15-184). Enrollment preference is given to those enrolled in prior years and siblings of enrolled students. If the charter school is sponsored by a school district, it must give preference to students who live within the school district boundaries. A lottery is used when there are more applications than spaces, with the above students given priority. The law also explicitly states that a charter school "shall not limit admission based on ethnicity, national origin, gender, income level, disabling condition, proficiency in English language or athletic ability." Charter schools may refuse admittance of students who have been expelled from another school or are in the process of being expelled.

- Admissions becomes an issue for charter schools in the area of enrollment expectations. Many operators did not anticipate students with disabilities applying for enrollment. The operators' expectations for a student population with specific characteristics can result in students with disabilities being counseled to enroll elsewhere. The operators' lack of knowledge about IDEA compliance can also affect their response to prospective students with disabilities.

- The SEA has provided considerable training in special education to prospective operators to alleviate misunderstandings about IDEA and the role of charter schools. The training became mandatory in 2000 for all prospective operators.

- Even with increased technical assistance there appears to be considerable variability among charter schools in the implementation of IDEA and the IEP process. The schools that have hired special education consultants or coordinators, or those schools that converted from an existing school, seem to understand the law and follow-through with the IEP process more effectively. Those charter schools where special education is a new concept or those that have no training in special education are finding it more difficult to integrate the IEP process into their school procedures.

- While many participants, including SEA personnel, board officials, and charter operators, report difficulties with the IEP process, some also noted how charter schools were providing innovative special education service and still complying with IDEA. For example, some charter schools have designed service delivery models where a consultant reviews the classroom teacher's IEP for the student; however, the services are provided entirely by the classroom teacher. The special education teacher is often an itinerant teacher who is serving several charter schools.
- Charter schools are expected to provide for the continuum of services needed to serve all students. However, many have the same issues that small traditional school districts do: they have a small enrollment and difficulty providing services in all areas. For some charter school operators, the concept of providing a continuum of placements or an array of services can be confusing. They are unsure what this means and how to provide the services when their enrollment is small and there are statewide staffing shortages exacerbating the problem. The issue is further complicated when students enroll with existing IEPs that list services to be provided under special education that are delivered through the charter school's regular program.

VII. DATA COLLECTION AND ACCOUNTABILITY

- Charter schools in Arizona are treated as LEAs for data purposes, and every charter school must complete all reporting forms that are required of LEAs. In addition, Arizona charter schools are considered LEAs for special education purposes and must complete all IDEA and state special education requirements, including child count.
- Charter schools are in a unique situation with regard to the child find requirements under IDEA since they do not have an attendance area. They can only provide child count information for enrolled students across all grade levels. Some charter schools work directly with school districts so that child count is consistent without redundancy. Others that are less knowledgeable about special education have not fulfilled this part of the data collection requirements.
- Arizona charter schools are under the same monitoring requirements as traditional school districts. They are assigned to a specialist in the SEA's special education unit for monitoring and support. The specialists serve two roles: they provide support so that the charter school can be in

compliance and they also monitor. The intent is to establish a relationship so the charter school will receive the assistance it needs before a monitoring visit. This should enable the school to be in compliance.

- All school districts and charter schools are monitored on a six-year cycle; however, charter schools and traditional school districts are monitored somewhat differently. With the IDEA emphasis primarily on outcomes for students with disabilities and less on procedural compliance, most traditional school districts are now monitored with a collaborative monitoring model. The school district is involved in the monitoring process and works on many of the procedural issues within the school district. The SEA decided to do more procedural monitoring of charter schools since they are in the early stages of development. All charter schools must go through at least one procedural monitoring cycle to determine compliance before they can be monitored through the collaborative model. Charter schools are also visited and monitored in the third year. A specialist works with the schools the first two years to assist them with special education requirements.

- Charter schools are also monitored during the first year of operation. The specialist will visit any school that requests help, provide them with IDEA information and training. The specialists provide copies of the laws and explain how they are interrelated. The department has also written a handbook on special education that is provided by the specialist. It should be noted, however, that some charter schools opt not to take advantage of the specialist's expertise because they fear being out of compliance and having to deal with revocation issues.

- There have been several complaints lodged against charter schools in relationship to special education over the years. Some study participants say these complaints, seen by both sponsoring boards and the SEA, are on the rise. The SEA is addressing the situation by requiring all charter school operators and other schools against which complaints have been lodged to complete special education training.

- All Arizona students are required to take the state's designated achievement tests unless it is specifically noted otherwise on the IEP. The state has developed an extensive list of accommodations that are appropriate for both students with disabilities who have an IEP and students who are being served through Section 504. The results are disaggregated by schools—charter and traditional.

VIII. STAFFING

- The Arizona charter school law allows non-certified teachers to provide instruction. The only exception to this is in the area of special education; however, the exception is not noted specifically in the charter school law. Charter operators must understand federal law well enough to know that it requires a certified teacher to provide special education.

- Arizona is in the midst of a serious shortage of special education teachers. As a result, traditional school districts and charter schools are competing for teachers and trying to find ways to deal with the shortages.
- Charter schools have addressed the special education teacher shortage in two ways. Some share services with other charter schools or hire consultants who are available a few hours a week. In other cases, the IEP is written globally with terms such as "help as needed by staff" so that all staff can fulfill the IEP.
- Many study participants discussed how the teacher shortage has impacted the quality of instructional service. Some charter schools are using consulting services or contracting companies to provide special education services. Some study participants were concerned about the quality of these services as well as the turnover that resulted from their use.

IX. TECHNICAL ASSISTANCE

- The SEA's special education unit provides technical assistance in two ways. First, it assigns a special education specialist to each charter school. Second, the SEA provides various training sessions around special education and charter schools that are open to charter school personnel. In conjunction with the training, the SEA has written a "charter starter" guide outlining the special education policies operators need to know in order to open their school.
- The state charter association received funding through the U.S. Department of Education to staff a resource center that provides information to charter schools on special education and other areas. The center staff members offer technical assistance through meetings with charter operators, a website, and training sessions. The funds are from the discretionary funding available to charter schools. The sponsoring boards also provide special education training in conjunction with SEA's special education unit. The school districts provide technical assistance if that is part of their negotiated charter agreement.
- Technical assistance for special education is still an issue for operators, advocates, and SEA officials. Though the state has designed a system that will address charter school and special education needs, it is understaffed and cannot provide the level of information needed to bring

charter operators up to speed. The knowledge gap is large in Arizona and appears to be one of the major issues facing charter schools and sponsoring entities.

- Technical assistance is also provided through private consultants or managing firms. There are two types of technical assistance needed and provided for special education. One type involves reporting and financial requirements; the other is related to education delivery and IEP process requirements.

X. TRANSPORTATION

- In Arizona, transportation is the responsibility of the charter school. The charter schools are funded at a per-pupil rate for transportation. If a student with a disability has any special transportation needs listed on the IEP, the charter school must provide the services. None of the study participants reported any issues with transportation.

XI. ADHERENCE TO PHILOSOPHY AND MISSION

- There was not agreement from study participants on whether Arizona charter schools were aligning their special education service delivery to their mission. Study participants did agree that, in general, prospective charter operators did not consider the question and often put a special education program together only when enrollment necessitated its development. Some charter school operators embraced special education; others were afraid of how it would impact their school and vision.

XII. EMERGING ISSUES

- One emerging theme was the desire of many participants that the federal regulations regarding special education be lessened or in some way modified to take into account the learning curve of charter operators.

- The emerging deregulation issue was juxtaposed against another emerging theme that focused on the need for more monitoring to ensure students with disabilities were afforded their civil rights. The concern translated into issues about monitoring for noncompliance. State officials and sponsors who understood IDEA were perplexed about how to carry out compliance monitoring in a deregulated environment.

- The third issue that emerged from the interviews was the concern over quality of education for students with and without disabilities. Study participants discussed the many areas of expertise that were expected of

Project SEARCH

California Case Study Executive Summary[1]

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California Case Study Methodology

Project SEARCH researchers conducted eight in-depth case studies of special education policies and practices in charter schools between January 1999 and September 2000. States were chosen as study sites to represent certain points on a continuum in three areas: length of time charter schools have been operating, the size of the charter movement in the state, and the degree of autonomy granted charter schools from their local district (LEA) for purposes of special education. California represents the earliest group of states, since the California law was passed in 1992, shortly after the first state charter law was adopted in Minnesota in 1991. The charter movement is large in California—there were 235 charter schools operating in 1999-2000, a total that is second only to Arizona. In addition, California has the highest number of students attending charter schools of any state. Finally, California is a partial-link state; charter schools are granted mostly by LEAs and they must maintain at least a minimal connection to their LEAs since all special education funding in California flows to school only through a Special Education Local Plan Area (SELPA) to its LEAs, and then to schools of the LEA. California case study data include document reviews, individual in-person and telephone interviews, focus groups, meetings with Department of Education staff, attendance at state-wide conferences, informal individual and small group meetings, and visits to 14 charter schools.

California Case Study Findings Related to Special Education in Charter Schools

The key areas that Project SEARCH investigated were: state charter laws and regulations, charter applications and contracts, facilities access and accommodations, governance structure, finance, educational service delivery, data collection and accountability, staffing, technical assistance, transportation, adherence to philosophy and mission, and emerging issues. The following is an executive summary of the California case study findings in these areas.

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[1] This document is the report of one component of a research study funded by the U. S. Department of Education, Office of Special Education (Grant #H377C980032-99). The study, called Project SEARCH, examines policy and practice related to special education in charter schools in seven states and the District of Columbia. This report and all other documents pertaining to this study are available online at. www.nasdse.org/project_search.htm.

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I. STATE CHARTER LAWS AND REGULATIONS

- There are three entities that can charter a school in California. The overwhelming majority of California charters are issued by LEAs. In addition, a County Office of Education can charter a school "that will serve pupils for whom the county office of education would otherwise be responsible for providing direct education and related service" (Education Code 47605.5). The county office may also become involved in an appeal of a charter denied by an LEA. The third entity authorized by law is the State Board of Education, which becomes involved as the chartering agent only when an application was denied by an LEA or the application involves a districtwide charter.

- The charter law allows both conversions of existing public (but not private) schools into charter schools, and the chartering of new start-ups. Conversion charter schools have often been motivated by a desire to separate from the bureaucracy of the LEA and/or provide a specialized focus that is not condoned in the district. However, in some cases, the chartering process has brought little or no change in a school. For example, one principal visited for this study stated that the school had become a charter in order to continue its foreign language immersion program when such activities were banned by law in traditional public schools. Another study participant stated that while conversion schools may not appear to change when they become charters, the nature of parent involvement is essentially different. She said there is a "big difference to parents between selling cookies and being invited to be part of the curriculum decisions."

- Originally, the charter school law did not address legal status for purposes of special education, but revisions passed in 1999 provide that students attending charter schools are similar in status to those students who attend a school as an interdistrict transfer (i.e., once the child is accepted into another district, that district owns responsibility regardless of where the parents live). Basically, this principle applies to students attending a charter school. However, according to charter school advocates, this is still a very contentious issue, and changes to the law have not succeeded in eliminating conflicts on this point.

- A 1999 amendment to the charter school law provides that a charter school may be "deemed a local education agency for the purposes of compliance with federal law," and such a charter school "shall be permitted to participate in an approved special education local plan"(SELPA). Charter schools that do not choose to become an LEA for purposes of special education "shall be deemed a public school of the local education agency that granted the charter." Very few charter schools have adopted the status of an LEA.

- Home schooling charters were part of the movement in California until, after considerable controversy, a 1999 law applied the state's independent study requirements to charter schools effective January 1, 2000. Non-classroom-based charters must comply with very specific procedures and extensive documentation and must certify that their students participate in state testing programs "in the same manner as other pupils attending public schools."
- A student can enroll in a classroom-based charter school from anywhere in the state. Non-classroom based charters may accept only those students who reside in the home county or a contiguous county of the charter. There is currently disagreement over the issue of the importance of residency as it relates to children attending charters schools. The SEA perspective is that, "Since the students are voluntarily enrolled in the charter schools, the district of residency has no responsibility and the responsibility transfers to the district/charter school of enrollment."

II. CHARTER SCHOOL APPLICATIONS AND CONTRACTS

- The law requires that a charter school shall not discriminate against any pupil on the basis of ethnicity, national origin, gender, or disability, and this affirmation is the only application requirement related to special education. Even though there is no requirement in state law that applicants address special education, an LEA may require that charter applicants provide specific information on this topic. One large district has developed a worksheet for evaluating charter proposals that covers eight special education components and related key factors that are expected to be described in the application to establish a charter school.
- Participants in this study frequently mentioned concerns about the level of special education awareness among charter applicants. One noted that there is a critical lack of special education knowledge among general educators as well as the general public, and many charter schools are started by teachers. One attorney commented that, "Charter applicants think that they sit outside the Ed Code and do not need to follow it." She recommended that clear guidance be provided as to which portions of the Education Code apply to charter schools. Many study participants also made strong recommendations for strengthening the orientation to special education for charter applicants prior to the submission of their applications, and for requiring evidence of appropriate planning for special education in the charter application.
- Some LEAs develop a memorandum of understanding (MOU) with the charter school that details responsibilities relative to special education.

III. FACILITIES AND ACCOMMODATIONS

- Although the general availability of facilities has posed problems for many charter schools in California, participants in this study did not indicate that access related to students with disabilities has been an issue in the state.

IV. GOVERNANCE STRUCTURE AND RELATIONSHIPS BETWEEN DISTRICTS AND CHARTERS

- Almost all California charter schools are linked to their LEA for special education and the relationship is influenced by many factors. The first, and perhaps the most defining one, is whether the charter school is a conversion of a previously existing LEA school or a new start-up school. California charter schools fall about evenly into these two categories. In a conversion school, the special education program is already established and, even if there are issues around the change into a charter school that strain the relationship or require replacement of staff, the charter operator begins with an existing system for meeting special education requirements. The tendency is for the special education program to continue to operate as previously structured. By contrast, start-up charters have to incorporate all the components of a special education program into their charter school design, although charter school advocates contend that start-up schools have greater potential for developing innovative special education programs which can be more responsive to specific students' needs and not limited to established approaches.
- California charters can also be categorized on the basis of the type of instructional delivery system they use. The majority (about 68 %) are classroom-based, about 12 % are non-classroom-based (home schools, independent study, or distance learning), and the remaining 20% of charters combine a classroom structure with non-classroom programs.
- Conversion charter schools have often been motivated by a desire to separate from the bureaucracy of the LEA and/or provide a specialized focus that is not condoned in the district. In other cases, the chartering process has brought little or no change in a conversion school.
- Relationships between charters and their LEAs for special education are also influenced significantly by a third element—the SELPA. According to information provided by the California Department of Education, the SELPAs were started to achieve a pooling of resources. Although they continue to be involved in many aspects of the special education programs in their member districts, such as monitoring and due process activities, SELPAs have become primarily the state's funding mechanism

for special education. All special education funding flows from the SEA to the LEAs and county offices through the SELPA system. SELPAs were originally set up by the state on the basis of geography. Although membership is voluntary for LEAs and they can choose to join a different SELPA, every LEA must maintain membership in a SELPA since this is the only way a district can access special education funds. There are now 109 SELPAs in the state. Some LEAs, such as the Los Angeles Unified School District, are large enough to be their own SELPA, but most SELPAs are multiple district organizations. The SELPA compiles a "local plan" for special education with input from all its members. The plan must ensure compliance with all federal and state laws, describe the services and programs to be provided for students with disabilities, provide an allocation plan for special education in member districts, and include an annual budget with a portion of the funding as a set-aside for administration of the SELPA. The plan must be reviewed at a public meeting before submission to the state. There are extensive requirements in the California Education Code for the content of those plans (Education Code, Part 30, Sec. 56200-56208).

- If the charter school accepts the default status as a school of its chartering LEA, the charter's interests are represented by the LEA member administrator who serves on the SELPA governing board, and there is no direct involvement of the charter operator in the SELPA organization. A charter school that chooses to become its own LEA must join a SELPA. Charters were given the option of participating in the SELPA of their charter-granting LEA, another existing SELPA, or creating their own SELPA alone or in conjunction with other charter schools. The law also specifies that an LEA may not refuse to grant or renew a charter solely because the charter might enroll students who reside in a different SELPA area than the one that covers the LEA. The SELPA is required by Code to treat a charter school's request to join in the same manner as it would treat any other school district and allow the charter to participate in state and federal funding for special education as part of the allocation plan in the same way as any other member. The SELPA must also permit the charter school to participate in the governance of the SELPA in the same manner as other LEAs that belong to the SELPA. Although state law permits one or more charter schools to establish a charter-only SELPA, such an organization was not yet established at the time of this study. Since charter schools may accept students regardless of their area of residence, a charter school student may live in an LEA that is a member of a different SELPA from the SELPA of the charter school's authorizing LEA. This would require that some arrangement be made between the two SELPAs, since funding for the student is tied to the LEA and SELPA of residence, but services are the responsibility of the LEA that grants the charter. In recognition of the possible discrimination that could result if a charter applicant intends to target students from a wider area than the local district, the new legislation also states that an LEA may not refuse to grant or renew a charter solely because the charter might enroll students who reside in a different SELPA area than the one that covers the LEA (Education Code 47647).

V. CHARTER SCHOOL FINANCE

- The financing of education in California has been a high profile legal and political issue for many years. In the 1960s and 1970s, the Serrano v. Priest case resulted in a finding that the California system of school finance was inequitable, and required more nearly equal per pupil allocation of the state's general purpose funds. In 1978, the highly publicized Proposition 13 resulted in a constitutional amendment limiting property tax rates and increases that, combined with the economic recession that followed, reduced resources for the schools. The situation improved somewhat with the passage of Proposition 98 in 1988 that guaranteed a minimum funding level for schools. However, the state's per pupil expenditure still lags behind many other states. California's expenditure per student (based on average daily attendance) in K-12 for 1998-99 was $5,627, ranking 40th in the nation. The state ranked 14th in per capita income for the same period.

- A new funding model for charters was incorporated into California law as part of the 1999-2000 state budget bill. This law created a charter school block grant that combines the revenue limit allocation and funds from many state categorical funding programs that charters may use for any purpose they wish. Charters may elect to receive their block grant directly or continue to receive funds through their districts until 2003 when all charter schools will received direct block grant funding. In addition, charters also receive a share of California lottery funds and may apply for funding from a variety of other state and federal categorical funds that are not included in the block grant. Special education funding is excluded from the block grant because these funds flow only through the SELPA system. State law provides that a chartering LEA may charge the charter school up to 1% of its revenue for the costs of "supervisorial oversight" of a charter school, that can go as high as 3% if the LEA provides substantially rent free facilities for the charter school.

- In most states, each LEA compiles a local plan for the implementation of special education that ensures its compliance with state and federal law and establishes the LEA's eligibility for federal and state funding to support programs and services for students with disabilities. In California, the SELPA prepares one "special education local plan" for its member districts that covers the implementation of special education in those LEAs. Funding for special education flows to the LEA through the SELPA structure. Funds for special education are not included in a charter school's block grant. Rather, the LEA is responsible for providing an equitable share of special education funds to those charter schools that are part of that LEA. Charter schools that are their own LEA for purposes of special education receive their special education funds on the basis of a SELPA allocation plan.

- Special education funds are generated on the basis of ADA (average daily attendance) of all students, and the LEA counts students who attend the charter schools that are part of their district only for generating special education funds. The funds actually flow to the SELPA, and sometimes a SELPA realizes a large increase in funding if a charter school has a large student body but only a small number of students with disabilities who receive services. In other cases, charter schools have an above average number of students with disabilities, and they represent potentially serious cost issues for the SELPA.
- One of the obligations a charter must meet as a part of an LEA is to contribute an equitable part of its charter school block grant funding to support districtwide special education instruction and services including, but not limited to, special education instruction and services for pupils with disabilities enrolled in the charter school. These charges are known by the colloquial term "encroachment," and they are charged to the charter school by the LEA on a per-student basis to cover costs that are above the revenues generated for a required service. As state officials describe it, this term is used disparagingly to refer to the amount of funds districts need to add from their general fund to cover the costs of special education since IDEA is not fully funded and state requirements sometimes exceed the amount of funding provided for them. The assessed amount differs widely among LEAs. According to one charter operator, the range is from about $100 to $350 per student enrolled in the charter school, but another charter operator reported encroachment fees that ranged from $250 to over $1,000. The actual amount is often a matter of negotiation between the charter director and the LEA, although some LEAs make the decision unilaterally.
- Some SELPAs use an insurance concept and pool an amount of money as a reserve for unexpectedly high special education costs. However, traditional LEAs are almost always larger than a charter school, and their larger size would allow them to hold a lower level of reserve funds than the level of protection a charter school might require. Thus, the reserve for emergencies that is calculated on the basis of LEA needs may not be sufficient to meet the liability a charter school might encounter.

VI. EDUCATIONAL SERVICE DELIVERY

- The specifics of special education service delivery are a matter of negotiation for those charters that are a part of their LEA for purposes of special education. The resulting arrangements vary significantly from school to school.

- Procedures related to IEPs also vary widely. In one case, the LEA does IEPs for all original evaluations and triennial re-evaluations, but charter staff do all annual reviews. Many concerns were expressed about paperwork throughout the IEP process.

- Issues were also raised concerning the decision-making process for placing students with disabilities in charter schools. A due process hearing decision focused on this issue early in the charter school movement in California. The hearing officer stated that LEA staff seemed to believe that the student's parents have an absolute right to choose placement in a particular school because it is a charter school, but he reminded the parties that a student's special educational placement is an IEP team decision.

- Although there is no clear data or documentation, charges were made by some study participants that charter schools avoid enrolling students with more severe disabilities through informal means usually labeled "counseling-out." At the same time, some charter advocates charge that LEAs find subtle ways to "dump" difficult students - especially those with behavior problems - on the charter schools.

- Issues of service delivery and IEP responsibilities for non-classroom based programs present another layer of issues. The law requires that a student with a disability may not participate in a non-classroom program unless that student's IEP specifically provides for such placement, and the instruction to be provided must be included in the IEP and reviewed annually. In some cases, students return to the LEA for special education services while, in other cases, the charter school provides special education staff who travel to the home or wherever the student receives instruction. Sometimes special education staff are employed by the non-classroom charter or contracted through a private organization.

VII. DATA COLLECTION AND ACCOUNTABILITY

- California has a number of requirements for educational accountability that specifically apply to charter schools, but sometimes there are exceptions. For example, charter schools must develop a School Accountability Report Card that is required of all California schools, but specific content required by law and LEA policy does not apply. Charter schools are free to develop report cards that meet their own accountability and communication needs.

- Study participants reported varying levels of monitoring of charter schools by their LEAs. Some charter operators said that the only type of oversight they experienced was related to financial matters. One individual commented that LEAs are "still learning how to do oversight."
- SEA representatives advised that the state is in the midst of a total revision of its special education monitoring system and the exact details of charter school participation have not yet been finalized.
- There is no legislated requirement for the involvement of special education in charter renewal, although a charter could be denied if a charter school were found to be in violation of federal or state law or regulations, including special education laws.

VIII. STAFFING

- Charter school operators participating in this study expressed concerns about obtaining staff coverage from their LEAs to meet the special education needs at their schools since the districts are having such difficulty hiring sufficient numbers of teachers for their regular schools.
- California charter school law requires teachers in charters to hold a certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold, but it also states that it is the intent of the Legislature that charter schools be given flexibility with regard to non-college preparatory courses. Alternative certification programs designed to provide a concentrated program leading to a permanent teaching credential are authorized by law and state grants are available for their partial support. However, IDEA requires that all staff delivering special education be appropriately certified.
- Special education staffing patterns vary among charter schools. In many cases, special education is provided by LEA-employed staff who work in charter schools alongside other staff members who may or may not also be employees of the LEA.
- The use of LEA special education staff in the charter schools raises issues of supervision. In one instance, a written agreement was developed between the charter and the LEA for cooperation in overseeing and evaluating the special education staff activities at the charter school. However, in many cases, there is no clear understanding about who should exercise the responsibility for special education staff supervision and evaluation.

IX. TECHNICAL ASSISTANCE

- Significant support and assistance to California charter schools is provided by a few informal organizations. Two organizations in particular provide assistance on a statewide basis, but they differ in their mission and structure. The California Network of Educational Charters (CANEC) is a statewide non-profit membership association founded and run by charter school operators whose mission is to provide a networking platform for charter school operators and developers to gather information and interact with one another. The Charter Schools Development Center (CSDC), a program at California State University Sacramento, focuses on technical assistance to the charter school reform movement in California and nationally through a series of workshops and publications. Both of these resource organizations maintain informational websites.
- The majority of school-level staff development and technical assistance is planned and provided by charter schools for their own staff, but it seldom addresses special education issues. In some cases, charter school staff participate in LEA staff development and technical assistance activities, but that content is also seldom related to special education.
- Although it is not a requirement, some SELPAs have begun to offer special education information programs for potential charter operators.
- SEA officials advised that they are in the process of establishing statewide training opportunities in conjunction with charter school operators, advocates, and LEAs. They expect to begin operating in Spring 2001.

X. TRANSPORTATION

- Charter schools do not receive funding for transportation for general or special education students, and one participant noted that there is a problem if the charter school cannot access the existing transportation system.
- Participants in this study expressed understanding that transportation must be provided for students with disabilities if it is a part of their IEP. Although there are general issues related to transportation, no problems related to special education transportation were cited.

XI. ADHERENCE TO PHILOSOPHY AND MISSION

- Many of the charter schools describe their approach as inclusive, with a commitment to avoid removing students with disabilities from the regular program for services. However, some reported struggling to meet the special needs of students with disabilities in the context of their mission and philosophy.

- Questions were raised about how much a charter school should be expected to modify its program to accommodate students with disabilities. Charter school operators expressed differences in advice they have received from attorneys concerning the legality of using "entrance exams" similar to those used by magnet programs. Operators feel that they cannot answer such questions and that they need clarification on how much control a charter school can have over its instructional program, especially when students with disabilities need approaches that are not in concert with the school's philosophy.

XII. EMERGING ISSUES

- Although charter schools are supposed to be exempt from most of the California Education Code, recent changes in law have the effect of "re-regulating" by making charters subject to selected parts of the Code.
- Charter school operators and others described confusing relationships among charter schools, LEAs, and SELPAs that are fraught with existing and potential problems. Special education has considerable impact on the LEA-charter school relationship, but there are no guidelines available to assist in working out that relationship.
- Special education funding for charter schools is very complicated and needs clarification in terms of the funding stream, formula calculations, and distribution of actual funds or resources based on funding. Participants in this study cited a need for clearer understanding of the entire financial aspect of California's charter schools, especially the matter of encroachment.

Project SEARCH

Colorado Case Study Executive Summary[1]

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Colorado Case Study Methodology

Project SEARCH researchers conducted eight in-depth case studies of special education policies and practices in charter schools between January 1999 and September 2000. States were chosen as study sites to represent certain points on a continuum in three areas: length of time charter schools have been operating in the state, the size (i.e., number of schools) of its charter movement, and the degree of autonomy granted charter schools from their local district (LEA) for purposes of special education. Colorado represents a) a first generation state because its first cohort of charter schools opened in 1993; b) a "medium" size state in terms of number of charter schools (69 operating in 2000); and, c) a total link state because charter schools are part of an LEA and the district retains ultimate responsibility for assuring that all students with disabilities receive a free appropriate public education (FAPE). Data sources for the Colorado case study consisted of more than 50 primary and secondary documents, visits to 11 charter schools, 23 individual interviews, three focus groups and visits to 11 charter schools. Purposeful sampling and chain sampling techniques were used to select individual informants, counties and charter schools. The key informants were chosen based upon their involvement with charter schools and special education and suggestions by other informants.

Colorado Case Study Findings Related to Special Education in Charter Schools

The key areas that Project SEARCH investigated were: state charter laws and regulations, charter applications and contracts, facilities access and accommodations, governance structure, finance, educational service delivery, data collection and accountability, staffing, technical assistance, transportation, adherence to philosophy and mission, and emerging issues. The following is an executive summary of the Colorado case study.

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[1] This document is the report of one component of a research study funded by the U. S. Department of Education, Office of Special Education (Grant #H324C980032-99). The study, called Project SEARCH, examines policy and practice related to special education in charter schools in seven states and the District of Columbia. This report and all other documents pertaining to this study are available online at: www.nasdse.org/project_search.htm.

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I. STATE CHARTER LAWS AND REGULATIONS

- Colorado passed its first charter school law, the Colorado Charter Schools Act, in 1993. The law is continually evolving and has been amended every year since it first passed. The many amendments reflect a strong pro-charter sentiment at the state level and an effective statewide lobby that is continually working to support charter schools. The law dictates that the local district is the sole charter authorizer, and charter schools are considered partially autonomous schools operating within their local district.
- The language in the law dictates that local districts retain ultimate responsibility for special education in charter schools. However, the manner in which special education is delivered is one of numerous issues that are "negotiated" between the district and the charter school.
- Outside of general non-discrimination clauses, the only language pertaining to children with disabilities in the Act addresses the issue of finance. In line with the federal Individuals with Disabilities Education Act, the Colorado Charter Schools Act stipulates that a "proportionate share of state and federal resources generated by student with disabilities" enrolled in charter schools shall be directed to the charter schools.

II. CHARTER SCHOOL APPLICATIONS AND CONTRACTS

- In Colorado, charter school applicants submit a formal application for a charter and then once approved, negotiate a contract that further stipulates the specifics of their relationship with their sponsor - the local school district. Some districts truly negotiate while others have a boiler plate contract for all the charter schools in their district. Study respondents attributed some districts' lack of flexibility in the contracting process to concerns about charter schools' capacity to independently deliver special education and the fact that LEAs are ultimately responsible for special education in charter schools. District staff was particularly concerned about charter operators' knowledge of IDEA and Section 504 policies and procedures.
- Charter applications were generally characterized as inadequate and vague in terms of how they address special education. A district liaison noted:

  > *We review charter applications in general and specific to special education during the application process. Most applicants are fairly weak and fairly general about special education. A 'good' application might mention that they will comply with IDEA.*

  Once chartered, many schools reportedly struggle to address the day to day challenges of operating a public school and specifically, the demands of addressing the needs of children with a diverse array of cognitive or physical disabilities

- District representatives and charter operators cited technical assistance and an open dialogue during the application and contract process as central to charter schools' ability to develop special education programs. A district Director of Special Education who reported that he had a good working relationship with the district's charter schools described the application and contract process in the following way:

  > *One of the things that we did when we were looking at their proposals and ultimately in our contracts was to build in firewalls for discriminatory factors on any domain. And I was looking much closer at special education because as a special education director, [my] greatest fear was that charter schools would just be ways to escape the responsibility to deliver services to kids with complex behavior and learning problems. And happily, on a macro level, that has not been the case. Our charter schools have a prevalence of kids with disabilities at or above the same levels as our [conventional] public schools.*

III. FACILITIES AND ACCOMMODATIONS

- The Colorado Charter Schools Act stipulates that, "In no event shall a charter school be required to pay rent for space that is deemed available, as negotiated by contract, in school district facilities." Nevertheless, securing an adequate facility is reportedly an ongoing challenge for charter operators.
- Given the general challenge associated with securing a facility, designating adequate space for special education can be a challenge.

IV. GOVERNANCE STRUCTURE AND RELATIONSHIPS BETWEEN DISTRICTS AND CHARTERS

- Across the districts visited, charter operators and district representatives reported diverse gradations of cooperation and support. For instance, one charter operator characterized her district in the following way:

  > *I have complete support from the district, and special ed. Special services from the district are fabulous. They have done a very good job of including me in their meetings so that I feel a part. I feel like I can call upon their services. Our director understands the problems of charter schools and supports [charters].*

  Conversely, a principal of a charter school in a different district reflected that "There is a lot of ignorance about charter schools amongst rank and file district personnel. For example, we have had problems getting access to records and services that the district offers."

- The clause in the Colorado law that allows districts to provide surplus facilities to charter schools is a positive provision yet, it potentially contributes to the inherent power differential between charter schools and their districts. Because charter schools are part of their district, there is predictable bargaining and brokering regarding various aspects of the charter (i.e., special education, facilities, transportation, and administrative services). In situations where the district provides the charter school with a facility, charter operators reportedly need to be savvy about nurturing their relationship with the district. A state charter advocate noted that, "Charters are picking their battles. The [the districts] really have the leverage on facilities issues."

V. CHARTER SCHOOL FINANCE

- All federal, state, and local education dollars for charter schools flow through their sponsoring district. For the first seven years after the Act passed, districts and their charter schools negotiated the level of funding provided to charter schools. The Act dictated that at a minimum, districts must provide charter schools with 80% of the district per pupil operating revenues (PPOR). PPOR is the financial base of support for public school minus capital reserve, insurance, and potentially other risk-management related costs (Colorado Department of Education, 2000). In 1999, the General Assembly amended the law and mandated that districts fund charter schools at no less than 95% of per pupil revenues (PPR) that include capital outlay and reserve funds.
- The change in funding is reportedly exacerbating, if only temporarily, the tension between charter schools and their sponsoring district. Charter operators perceive the change to be a financial windfall. District staff projects that the funding adjustment will trigger a shift in how districts deliver services to charter schools. Specifically, district staff in multiple districts explained that once they start to forward more funds directly through to the charter schools, they are going to more closely monitor the services they provide to charters and charge charters for services that were previously "free." A district administrator explained that:

  > *The shift from 80-95% is forcing the district to re-evaluate the costs associated with the charter schools. The district produces all this stuff out of the 15%. Now there will be a cost to the charters because they are receiving more of their money.*

- District representatives reported that it is challenging to meet the demands of charter schools while simultaneously meeting the demands of traditional public schools that serve a far greater percentage of the total district population. A district liaison to charter schools explained, *The board and the central administration have become more frustrated in the last year. The charters keep coming back for more and more from the district." Along these lines, a state charter advocate commented, "Once the schools open, it is a perpetual fight over money.*

- Colorado funds special education using an unweighted formula. This is added to the state's base education funding formula. These funds are disseminated based upon the annual October count.
- Special education risk pooling (i.e., the insurance model) is an increasingly popular practice in Colorado. The insurance model essentially applies a standardized measure to all students who enroll in charter school for the explicit purpose of insuring against the cost of special education for a specific population of students. The cost of the insurance model varies by district but it is typically in the ballpark of $300-$500 per student. The two major points of conflict identified by charter operators were whether or not participation in the insurance model was voluntary and the rate actually charged to participate.
- Discussions with charter operators and district representatives revealed disparate perceptions regarding the risk-pooling model. Numerous charter operators reported that school districts are charging the charters more than the cost of the services provided. Conversely, district representatives reported that rather than profiting from the charter schools, districts are absorbing additional costs associated with supporting the charters and that the districts are providing a great deal of in-kind services (i.e., free informal legal counsel, day to day information, and technical assistance) to charter schools.
- Federal IDEA, Part B funds either flow through the district to the charter schools or the district retains the funds and pools them across the district to provide special education services or related professional development. Many charter schools are reportedly unclear about whether they receive IDEA funds or whether the district retains the funds and delivers services. In cases where the charter operators understand that the district retains IDEA funds, many were either unclear or unsatisfied with the manner in which the district distributes the funds in the form of services or professional development. Specifically, charter operators reported that the services and training were not always relevant to charter schools.

VI. EDUCATIONAL SERVICE DELIVERY

- In Colorado, charter schools have adopted three models to deliver special education: (a) the charter school assumes total responsibility for special education, (b) the district assumes total responsibility, or (c) the charter school and the district share responsibility. The three approaches each have costs and benefits for both charters and districts depending upon the specifics of the arrangement.

- Districts in Colorado are increasingly requiring that charter schools participate in an insurance model for special education. However, there is nothing in the state law that specifically authorizes the district to require that charter schools handle special education in a specific manner. District staff attribute the popularity of the insurance model to the fact that, according to IDEA, the district is responsible for delivering a "free appropriate public education" and many districts are not willing to delegate that responsibility to charter schools.

- Of the 11 charter schools visited for this study, five reported that they operate a full-inclusion model and the remaining six reported that they provide some special education services on a pullout basis. Nearly all of the charter schools that described their special education model as "full-inclusion" appear to be offering a somewhat generic as opposed to an individualized program. District administrators expressed concern about the perception on the part of charter operators and some parents that "individualized learning," (typically represented by small classrooms or self-driven work) addresses student's special education needs. A district director of special education lamented, "Some [charter schools] are naïve about what special education needs are—individualized learning does not fix it all."

- Charter schools are part of a Board of Cooperative Education Services (BOCES) if their authorizing district is a part of the BOCES. In these charter schools, the BOCES provides administration and related services for special education but the charter schools remain responsible for day to day service delivery. Although there is some variation among the BOCES, in general, in traditional as well as charter schools, the BOCES receives federal and state money, and it provides related services. Schools are expected to hire their own special education professionals from the PPR, that represents their local contribution to special education, and the BOCES covers all the other related services.

- Discussions with state, district, and school level personnel revealed that charter schools periodically "counsel-out" students with disabilities. Study participants attributed the practice to a variety of factors from lack of knowledge about special education to inflexibility in charter schools' instructional models to inadequate human and fiscal resources. Regardless of the cause, "counseling-out" is potentially illegal and is counter to the spirit and letter of IDEA as well as the Colorado Charter Schools Act. Additional discussions with study participants revealed that the notion of "counseling-out" encompasses a gray area between discrimination and determining the best educational program for a particular child with a disability. In general, charter schools are struggling to balance their individual mission with the rules and regulations stipulated by IDEA and specifically the accommodations that may be necessary to educate individual children with disabilities. A CDE official reflected on the challenge of balancing individual needs with charter schools' instructional programs in the following way:

> *[Some charter schools] strategically write their charters to exclude students with disabilities. How do we honor the charter's autonomy and ensure access? Sometimes the issues are honest issues and the school is not a good fit…at the other extreme are schools that really don't want to take students with disabilities. They get into conflict with [the] district and parent over how much accommodation is reasonable to expect.*

VII. DATA COLLECTION AND ACCOUNTABILITY

- The state of Colorado has an accountability system that incorporates state standards, standardized assessments [the Colorado Student Assessment Program (CSAP)], and high stakes reporting. CSAP is administered in grades 3, 4, 7, and 10. In addition to the state mandated CSAP, individual public schools administer a variety of standardized tests to track student progress. According to the 1999 CDE charter school evaluation, charter schools scored above the state average and their authorizing districts on all CSAP assessments (Colorado Department of Education, 2000).
- Charter schools are legally obligated to participate in the state fiscal and academic accountability system as well as a state charter school accountability system.
- The primary tool to collect data and specifically track charter schools in Colorado is the annual report and evaluation mandated by the Colorado Charter Schools Act. The most recent evaluation contains data from the 1998-1999 academic year regarding: characteristics of charter schools, their students and teachers, governance of charter schools, parent participation in charter schools, student achievement and school performance, waivers of state law granted to charter schools, funding of charter schools and the parties from whom charter schools obtain services, lessons learned by charter schools, and ongoing technical assistance needs of charter schools (Colorado Department of Education, 2000). Data regarding special education in charter schools are embedded in these various categories.
- The state law does not specifically mandate that special education be considered as part of the charter renewal process outside of general questions regarding addressing the charter's goals and objectives and

assessment of student performance. As a result, individual districts determine the degree to which special education is part of the renewal process.

- Charter schools are incorporated in the LEA and state special education monitoring system. When the state conducts special education audits, charter schools participate in the same way as traditional public schools. Overall, charter operators perceive that in terms of special education accountability, districts and the state are generally reactive rather than proactive in terms of monitoring compliance issues. The state conducts two types of special education audits, a program audit and an account audit. A BOCES Director characterized the two audits:

  > *One is a program audit [that looks] at your service delivery model and how you provide services and are you in compliance with the law and so forth. And they'll cite compliance issues and you have 90 days to give them a report on how you're going to rectify the compliance issues. They'll identify concerns and make recommendations. Most of the time it feels like it's not real punitive. It's intended to be supportive and helpful. The account audits are the ones that really matter in terms of funding. That's when they come in and look at your paperwork. Did you dot your i's and cross your t's. And if you didn't, you can lose money.*

- Charter operators did not express concern or trepidation about state special education audits. However, district operators expressed some apprehension about the audit and potentially being held accountable for special education in charter schools that they have limited control over.

VIII. STAFFING

- There is significant variability by district in terms of availability of special education staff. Some of the larger urban districts are reportedly not struggling with hiring special education staff while more rural districts are struggling to hire and retain certified special educators as well as general educators. Study participants cited low salaries, limited benefits, and poor job security as key challenges to hiring special education staff. Hiring and retaining special education teachers is further complicated by the fact that charters, due to their small size, typically only hire one special educator. Special education teachers that participated in a focus group lamented that they are sometimes isolated in their schools because they do not have a cohort of peers with whom to share special education teaching experiences and issues.

- In districts that utilize the insurance model, the district provides special education teachers and related service professionals to the charter schools. In cases where the district is hiring staff that will work in the charter school on a daily basis, the relationship appears most amicable when the charter school has some involvement in the hiring process. In some districts, a district supervisor observes and assesses the charter school special education teacher.

- Charter schools typically recruit teachers from the local district, hire retired and itinerant teachers, or contract with private providers. When charter schools purchase special education services through the district, they can generally access a wider variety of special education and related services professionals.

IX. TECHNICAL ASSISTANCE

- The primary source of technical assistance for charter schools on a wide array of issues is their sponsoring LEA. Individual districts have developed technical assistance networks that range from simply sending forms to charter schools to sponsoring monthly meetings with charter school administrators and district staff. Charter operators report uneven access to various district activities and in particular, professional development activities. In the two districts that convene charter school administrator meetings, charter operators reported that the meeting were helpful venues in which to network with other charter operators and stay abreast of larger district issues. Other districts provide technical assistance to charter schools on a more reactive, as-needed basis.
- CDE has two staff members who are primarily responsible for charter school issues. Study participants generally complimented the CDE and describe the Department as "charter friendly." The Department's website is informative and contains a number of documents to support charter applicants and charter school operators. CDE does not have a special education "consultant" or "expert" devoted to charter school activities.
- The Colorado League of Charter Schools predates the first charter school in the state and functions as an advocate for charter schools collectively and a key source of technical assistance for charter schools individually. The League also organizes the annual state charter school conference.
- A group of six rural Colorado charter schools formed a collaborative network to support one another. The Rural Charter School Network is reportedly an important "lifeline" for its rural members. It has successfully applied for a number of grants that assist the individual schools to develop and support their instructional program. To date the network has not collectively addressed special education issues.

- A number of Colorado charter schools have successfully applied for federal Comprehensive School Reform Demonstration (CSRD) grants. A principal of a school with a CSRD grant spoke highly of the many benefits of being affiliated with an established school model. The principal explained that in terms of technical assistance, the particular school model they adopted through the CSRD program is frequently her first source for technical assistance. Furthermore, the requirements associated with the CSRD program reportedly prepared the school to effectively evaluate itself.

X. TRANSPORTATION

- Colorado charter schools are not required to provide transportation to their students and in fact, most charter schools are not providing it. Study participants cited the high cost of transportation as the primary reason. The few schools that reportedly are providing transportation either contract with the local district or give vouchers for public transportation. The state provides a "limited" amount of funding to reimburse charters and districts that transport children.

- If a child's IEP stipulates that transportation is a related service, the child's school is required to provide transportation. However, discussions with charter operators revealed that charter schools generally don't provide any transportation, even to children with IEPs that require it as a related service. Charters reportedly justify this by saying they are schools of choice, and part of the parents' choice is knowing that, if they want their child to attend the charter school, they must provide or arrange for transportation. When probed about this policy, a special educator from a charter schools explained:

  > *If it's on the IEP when we get a kid, then I let them know that we can't provide it. That- we don't have those services…We only have one child who needs transportation and the parents agreed to provide it.*

  The notion that choice enables a charter school to limit its services was a common sentiment expressed in multiple districts. A district director of special education in a different district corroborated the teacher's statement:

  > *The transportation of special education [students] issue, charter schools are schools of choice, if a parent makes a choice, they have to provide their own transportation to the school.*

  The exception to this statement is if a district places a child with a disability at a charter school. In this case, the district would provide transportation.

XI. ADHERENCE TO PHILOSOPHY AND MISSION

- Charter schools in Colorado offer a wide array of academic models. Unlike traditional public schools, many charter schools define themselves by their model (e.g., as a Core Knowledge school). Charter operators struggle to balance the degree to which they must modify their curriculum to serve children with disabilities while honoring their larger goals and objectives. A charter school operator expressed her dilemma, which reflects the sentiments of many charter operators who participated in the study:

  > *If I have a kid who is coming from a self-contained classroom I really sit down with the parent and let them know, because we're all inclusion, project-based, inter-disciplinary curriculum, [our model] is a wild kind of curriculum and it's not appropriate for a lot of kids. There's a lot of self-starting that needs to happen and they would just be left behind. It was a real struggle because for me—if you want to come to our public school come on in. We've got to accept you.*

- Charter operators perceive that parents frequently shop around for a different or better option for their children with disabilities and may select a charter school because it is different rather than because it necessarily meets the children's needs. The fact that certain charter schools in Colorado are attracting disproportionate numbers of children with mild disabilities appears to support charter operators' perceptions. From the perspective of district staff, the disconnect between what parents want and what charter schools may offer raises questions about what services charter schools provide to children with disabilities. A BOCES director explained:

  > *I think that sometimes the charter schools get the most difficult students in the district. They're not successful in a public school and so parents pull them out and they go to a charter school. Consequently, they have a high-risk population. Sometimes on the IEP, it doesn't fit into their schedules because they're so unique. I have nothing against creativity, but in the past there have been some concerns about, are children really getting the services they need? And there's also sometimes a misunderstanding of 'we don't have to create this program if there's one in the public school.'*

- Contrary to concerns raised during Project SEARCH's initial policy scan, the potential rift between charter school and district assigned special education staff appears to be a minor or non-issue. Discussions with charter school staff, including special education teachers and district staff verified that in the districts visited, district staff and charter school staff are generally working together to hire the teachers assigned to charter schools via the insurance model or on a case by case contractual basis. A state level charter advocate explained:

> *In practice, if a student enrolled in a charter is referred to special education, the charter schoolteacher, in accord with IDEA is included in the IEP process as their classroom teacher. District level personnel are also involved. In some cases, district hired personnel are more affiliated with the charter because they are assigned to work at the charter most of the time.*

XII. EMERGING ISSUES

- The practice of requiring charter schools to participate in the district special education insurance model emerged as a growing concern for charter operators. Charter operators perceive that they are frequently at a distinct disadvantage when negotiating with their districts and that requiring their participation in the insurance model is out of line with the spirit of the state charter school law. From the district perspective, the federal mandated obligations outlined in IDEA limit the degree to which the district can delegate special education responsibility to the charter schools. The diverse perceptions and practical reality that some districts are charging high rates to participate in the insurance model emerged as an issue that causes tension between LEAs and charter schools.

Reference

Colorado Department of Education. (2000). *1998-1999 Colorado charter schools evaluation study: The characteristics, status and performance record of Colorado charter schools*. Denver, Colorado: Author

Project SEARCH

Connecticut Case Study Executive Summary[1]

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Connecticut Case Study Methodology

Project SEARCH researchers conducted eight in-depth case studies of special education policies and practices in charter schools between January 1999 and September 2000. States were chosen as study sites to represent certain points on a continuum in three areas: length of time charter schools have been operating, the size of the charter movement in the state, and the degree of autonomy granted charter schools from their local district (LEA) for purposes of special education. Connecticut represents states that have been implementing charter schools for only a short time—its law was passed in 1996 and the first charter school opened for the 1997-98 school year. The movement is small in the state with only 16 charter schools in existence at the time of this study. Finally, Connecticut is a strong example of a total-link state, since the district of residence is responsible for special education for its students even if they attend a charter school. The case study data consisted of state, district, and school-level interviews, focus groups, documents, and visits to 13 charter schools.

Connecticut Case Study Findings Related to Special Education in Charter Schools

The key areas that Project SEARCH investigated were: state charter laws and regulations, charter applications and contracts, facilities access and accommodations, governance structure, finance, educational service delivery, data collection and accountability, staffing, technical assistance, transportation, adherence to philosophy and mission, and emerging issues. The following is an executive summary of the Connecticut case study findings in these areas.

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[1] This document is the report of one component of a research study funded by the U. S. Department of Education, Office of Special Education (Grant #H324C980032-99). The study, called Project SEARCH, examines policy and practice related to special education in charter schools in seven states and the District of Columbia. This report and all other documents pertaining to this study are available online at: www.nasdse.org/project_search.htm

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I. STATE CHARTER LAWS AND REGULATIONS

- Charter schools did not arise from any organized effort against perceived deficiencies in the traditional public school system as was true in many other states. A court decision in the case Sheff v. O'Neill found racial, ethnic, and economic isolation in the Hartford schools. The Connecticut charter law was passed in the same year (1996) just before the decision was issued and charter schools were included as one of the remedies to be used to address the findings. This case was a major factor in the start of the movement in the state.
- State law provides that all chartering is done by the State Board of Education and there is no role for local district chartering. However, the state may issue two types of charters - state charters and local charters. Only two of the local type have been established and they exist only in Hartford. Local charters have closer ties to the LEA in which they are located since the LEA provides operating funds, and their teachers are included in the LEA bargaining unit. The state provides operating funds directly to state charter schools, and their teachers are not included in the local bargaining unit.
- State law requirements concerning responsibility for students with disabilities who attend Connecticut charter schools are basically consistent with previously established state policies on this matter. The state has had magnet schools for many years, and the principle of "nexus" controls the locus of responsibility; that is, the district of residence for a student with a disability retains responsibility for providing special education regardless of where the child attends school.
- A 1999 amendment to the original charter school law assigned responsibility for making sure that services are delivered. It provides: "The charter school a student requiring special education attends shall be responsible for ensuring that such student receives the services mandated by the student's individualized education program whether such services are provided by the charter school or by the school district in which the student resides."

II. CHARTER SCHOOL APPLICATIONS AND CONTRACTS

- Since the State Board of Education is the only chartering authority in Connecticut, the process and criteria are consistent for all charter applicants. There is one item on the application that relates to special education: "Explain how your school will accommodate special education students. How will the school work with the local school district to ensure the provision of special education services?" The State Department of Education (SEA) conducts a structured application review process, and the criteria for review are compliance with federal mandates, and the ability to accommodate students with disabilities in the school program.

- Although the law requires that the LEA be involved in the approval process for charter school applications, LEA special education administrators in this study stated that they were not included in the process. Some said it is not unusual for them to be unaware of a new charter school in their district until they learn about it through the media or until after it opens. Some charter operators who had been a part of the LEA before starting a charter school described a higher level of involvement with district staff, but that was a function of their relationships with district personnel more than any established procedure for coordination between charter applicants and the district. For the most part, the statutory requirement for involvement of the district is not well known among the LEA directors of special education. Most agreed with one administrator who said, "We hear about a charter school only after the fact."

III. FACILITIES AND ACCOMMODATIONS

- The state advises charter applicants about the requirements of the Americans with Disabilities Act and the enforcement of standards concerning building access.
- Although charter operators voiced some concerns about obtaining facilities, participants in this study did not identify any serious issues that had arisen related to accessibility of charter schools or their accommodation of students with physical disabilities.

IV. GOVERNANCE STRUCTURE AND RELATIONSHIPS BETWEEN DISTRICTS AND CHARTERS

- Connecticut law is unique in the distinction it makes about the legal status of a charter school as an independent entity for most matters except special education and transportation, which remain the responsibility of the LEA.
- There is no specification in the law about options for implementation of special education in the charter school. Various arrangements have evolved. In some charters, the LEA staff delivers service directly, while in others the LEA reimburses the charter school for the cost of special education services delivered by special education staff employed by the charter. There are also many variations of these two opposite patterns involving combinations and sharing of tasks. Charter schools with students from more than one LEA described the managing of these arrangements as complicated and time consuming.

- There is a wide discrepancy in perceptions of the linkage by charter school and LEA participants. Some charter school staff expressed satisfaction with the formal requirements as they now exist. One operator observed, "I can't imagine doing all the extra paperwork for special education that would be involved if we had to do our own IEPs." The opposite opinion was also expressed: "Every issue about special education is a battle - districts don't want to be told what they have to do by the charter schools."

- The most common negative observation by charter school operators concerned the frequent turnover of personnel in LEAs. They described a heavy dependence on informal personal relationships, but many agreed with the observation that, "We just get things going right with someone and then he's gone and we have to start all over with someone else."

- Most LEA special education administrators were disapproving of the mandated relationship with charters concerning students with disabilities. It was described as a forced relationship with no clear lines of authority. They pointed to a variety of problems including lack of involvement, poor communication, and the absence of control over special education programs for which they are ultimately responsible. One said he finds out about his district's students who are at the charter school only after he gets a list of students who have been accepted there. Another complained, "I have to help plan programs for students without knowing the school or its program, and develop an IEP for teachers who do not report to me."

- The most common suggestion of LEA special education directors was for each charter school to be a separate entity with its own funding for special education just as charters receive their own funding for all other costs. As expressed by one director, "My choice is to get us out of the picture entirely."

- Charter school operators were very complimentary of the efforts of the SEA in providing assistance in solving conflict between charters and their LEAs concerning special education issues. One specialist in the Bureau of Special Education and Pupil Services has been assigned the responsibility of working with charter schools, and participants in the study described her efforts as very fair and effective in bringing solutions to all types of special education problems pertaining to the roles and responsibilities of LEAs and charter schools.

V. CHARTER SCHOOL FINANCE

- Funding for special education is not supposed to be a direct concern for charter schools because the LEA of residence retains fiscal responsibility for all costs related to evaluation and special education services for their students who attend a charter school.
- Charter schools do not get any state or federal special education funds directly from the state, but there is no indication as to what, if any, special education costs are expected to be covered in the basic per pupil grant that charter schools receive.
- With respect to the costs that the LEA is expected to cover for its students with disabilities in charter schools, the law uses the term "reasonable," but without definition or description of any limits. Directors expressed frustration in attempting to prepare an adequate district budget for these costs.
- Although responsibility remains with the LEA, arrangements involve negotiations between the charter school and LEA officials. LEA representatives suggested that some charter schools look upon the provision in the law as a blank check. One said that the charter school "is draining us in the amount of services they are requesting," while another complained that the charter school expected the LEA to provide whatever type of service the charter staff felt the student needed.
- A variety of arrangements have been adopted between LEAs and the charter schools their students with disabilities attend. In some cases, LEA staff are sent into charter schools to provide direct services to students with disabilities. In other cases, charter schools arrange for service delivery through their own hired staff or contracted arrangements and bill the LEA of residence for each student. Variations of these two extremes also exist. For example, one LEA made arrangements for services with another town that was already sending a therapist into the same charter school, and billing was done between the two towns.
- Charters operators with students from more than one city or town described confusion related to arrangements with multiple LEAs whose students receive special education services from different providers. Charter school operators said that often the advantage of not having to plan for hiring or contracting with service providers is outweighed by the problems resulting from the need to accommodate schedules for itinerant special education staff from different LEAs.
- Charter schools in Connecticut have not joined together to arrange for special education services. One LEA administrator described a shared

services alternative that he thought should be considered for charter schools. His district is a partner in a regional service organization for all their students who attend a magnet school. Each LEA involved pays a flat rate regardless of how many students the district has at the magnet school at any one time. He said that, although this may involve paying for more services than the district's students get in some years, a balance between payments and services occurs over time.

VI. EDUCATIONAL SERVICE DELIVERY

- In most cases, application forms in use in Connecticut charter schools do not contain questions about special education, although a few have a single item asking if the student is receiving special services. None of the participants in this study cited instances of charter schools' counseling-out students with disabilities, although discussions held with charter school staff suggest that this practice probably goes on in Connecticut. Many charter schools invite students and their parents for an individual interview after acceptance, and this is usually when the existence of an IEP is pursued. Charter school operators stated that they encourage students and parents who are interested to visit the school before applying so they can decide if it is the right choice for the student.

- Charter school operators indicated that some parents do not tell the charter school that their child is receiving special education services, but this is not a common occurrence. One operator related an incident in which a student wanted to go to the charter school "to get away from the stigma of special education."

- The application process in use in the New Haven schools is a unique approach. A booklet entitled New Haven's Public Schools of Choice contains a single-page application form for all magnet and charter schools in the city. Parents are encouraged to consider their child's needs such as special interests and learning style, and to visit the open house that each school holds during the month before applications are due. There is an individual description of the program at the 21 schools, including the three charter schools in the city, and the number of seats available at each school. Parents can prioritize up to three choices, and a single lottery is held to decide which students are accepted in each school. A waiting list is compiled for students who were not chosen, and they are offered any vacancies that occur after the successful students make their decisions final. The procedures for this joint lottery process include the following statement about students with disabilities: "Assignment of special education students requires a Planning and Placement Team meeting [the Connecticut term for an IEP team] before the end of the school year."

- Study participants related some problems in obtaining student records from the traditional schools. One charter operator said, "The state orders the LEA to send records to the charter school, and the LEA orders its school to send the records, but it still doesn't happen the way it should." However, another participant said that it was actually easier to get special education records than regular school records. In contrast, LEA administrators expressed frustration with what they described as the common practice of first learning that a student with a disability is attending the charter school when his/her name appears on a list.

- Despite the clear assignment of responsibility for evaluations and IEP team processes to the LEA by law, specific IEP procedures are carried out differently among charter schools in Connecticut. In some cases, the entire process takes place on LEA premises using LEA staff, although LEA specialists often go to the charter school to do student assessments. The charter school is then invited to send a representative to the team meeting. In other cases, the charter school plays a more active role by either completing some of the evaluation components, or hosting the team meeting at the charter school building.

- In general, there was no evidence of problems concerning the logistics of getting evaluations done. However, some problems of service delivery result when the process of constructing the content of an IEP conflicts with the capacity of the charter school. For example, in one case, students were recommended for full time special education placement, but the charter school did not include that option. After discussing the problem, the parents decided to continue the students in the charter school and a revised IEP was developed. This illustrates a major challenge in implementing special education in a charter school that was identified in this study—the conflict between parental choice and the IEP team decision making principle of special education.

- Charter school staff expressed concern that there is no guideline saying who has final say about a child's program. They felt that the charter school staff knows the student as a participant in their program, and therefore LEA personnel should allow the charter school to make all programmatic decisions. One focus group participant's statement illustrates the dilemma LEA administrators described: "Even if we disagree, we don't have enough information to base that disagreement on because we really don't know what is going on in the classroom."

- In Connecticut, special education services at charter schools are based more on the models used in traditional schools since the LEA is responsible for the IEP process. Staff from some charter schools indicated that the hours of special education services outside the classroom could be reduced at the charter school because students' needs can be met better in their smaller classes and more flexible programs. However, staff from another school stated that while their classes have only 12 students with a teacher and an aide, they have had to do more pullout services than they expected.

VII. DATA COLLECTION AND ACCOUNTABILITY

- The Connecticut Department of Education has developed a two-fold evaluation design for charter schools that consists of an annual local evaluation submitted to the state by each school, and a statewide evaluation of the implementation of the charter school law. The Department contracted with the Western Michigan University Evaluation Center to conduct the formal five-year evaluation to address whether charter schools are accomplishing what they proposed to do based on their mission and goals, and required all charter schools to participate. The evaluation contract also includes the provision of technical assistance to charter schools informally during school visits, and formally through a series of three to five workshops per year. A description of the evaluation, copies of the instruments being used, and the first year's report are available on the website at www.wmich.edu/evalctr/charter/ctcharter.html. The first year report of that comprehensive evaluation was released in January 1999, but only minimal information about special education was included. The final product is due in September 2001.
- The SEA has developed an extensive accountability plan for charter schools with multiple components including special education. The basis of the accountability system involves three types of visits to charter schools. First, an informal visit is made by SEA staff soon after the charter school opens for purposes of orientation. Then, the charter school is asked to complete a self-assessment as the basis of a brief visit in years two and four to ensure that the charter school is functioning in compliance with the law. Known as the Review of School Fundamentals, this visit involves verification of compliance with law in eight areas, one of which is special education. Any violations found are documented in a corrective action plan, and a follow-up visit is conducted to verify implementation of the required actions. The final type of team visit is a comprehensive site visit conducted in the school's third year that involves an interdisciplinary team of SEA staff to review the charter's educational model and curriculum, hold discussions with a variety of individuals involved with the school, and follow up any compliance issues that were raised in the Review of School Fundamentals visit. The state team compiles a formal report of the findings from this visit. Staff from the Special Education Division of the SEA are closely involved in all components of this accountability process and participate in team visits.

- The Special Education Division of the SEA also carries out a monitoring program in every LEA as required by federal law. Each LEA is reviewed and visited at least once every six years to assess compliance with federal and state requirements. In preparation for monitoring, SEA staff are advised of the charter schools which students from the LEA attend, and the LEA is instructed to make available at least one file of a student who attends a charter school (or 5% of district students who attend charter schools, whichever is greater) in the materials to be reviewed for compliance. Based on findings during the 1999-2000 school year, one charter school and its LEA were issued a corrective action plan, and violations in another district resulted in the return of a portion of the district's special education federal funds and a requirement to provide compensatory services for students who were not served appropriately.

- In addition to formal monitoring, the SEA consultant handles any issues that arise during the school year concerning the provision of services to students with disabilities in charter schools. Each LEA is expected to have a written policy on serving their students who attend charter schools, but this is not a requirement at this time.

- Charter schools in Connecticut are treated as LEAs for data purposes, and all statistical forms that are required of LEAs must be completed by every charter school. That includes financial information, general education enrollment data, standardized test scores, and data on staff. Charter schools do not count students with disabilities since the LEA receives all special education funds for their resident students regardless of where they actually attend school. Charter schools must, however, include special education data in their financial reports to the state about expenditures for special education services delivered in the charter school. One charter operator cited problems in obtaining the necessary information from the LEA.

- Concern was expressed by charter school operators about LEA record keeping of special education services delivered in their schools. There is no requirement for the charter school to log service hours received by students or the time spent with each student based on provisions of an IEP.

VIII. STAFFING

- Under the Connecticut charter school law, at least one-half of the persons providing instruction or pupil services in a charter school must hold regular certification, and the remaining 50% may have alternative certification or temporary certification and be working toward certification. However, if a charter school hires its own special education personnel, it must also abide by the requirements of the Individuals with Disabilities Education Act (IDEA) which mandates that "personnel necessary to carry out the purposes of this part are appropriately and adequately prepared and trained."

- The major staffing issue raised by participants in this study was a shortage of special education certified teachers and specialists. Both charter school and LEA personnel described significant difficulty finding appropriate staff. One charter school that hired its own special education teacher stated that it had to pay $6,000 more out of charter school funds above the local pay scale to get a special education teacher. This contributed to tension between the charter school and the LEA since, as one charter school operator put it, "LEAs have great difficulty filling their own positions and charter school needs are not on the top of their list."
- Staffing concerns for charter operators include the lack of itinerant staff attached to the charter school, that staff's limited knowledge of charter school programs, and issues related to supervision of that staff.

IX. TECHNICAL ASSISTANCE

- The only formal provider of technical assistance for Connecticut charter schools is the SEA in both general and special education areas. The special education division has developed a significant amount of technical assistance resources for charters. One special education consultant is assigned half-time to charter schools and represents the special education division in all state activities pertaining to charter schools. She is a member of the state's teams for review of charter applications, ongoing accountability activities, and charter renewals. She convenes meetings for charter school operators and staff related to special education issues and provides a variety of formal and informal technical assistance to both charter school and LEA personnel.
- Although there are some gatherings of charter schools on an informal basis and more formal meetings run by the SEA, there was no charter-controlled organization such as a resource center or association in Connecticut at the time this study was conducted. However, an organization to fill this need has since been established.

X. TRANSPORTATION

- Transportation is the only area other than special education in which Connecticut charter schools are not autonomous. The LEA is required to provide transportation for all its resident students who attend charter schools within the district and may do so also for all charter school students regardless of their location. Participants in this study reported that special education transportation has not been a problem, except for some logistics needed to accommodate a charter school's time schedule.

XI. ADHERENCE TO PHILOSOPHY AND MISSION

- Participants in this study expressed some concerns about how students with disabilities fit with some aspects of their curriculum. In some cases, a charter school's design incorporates concepts related to the special needs of a student. For example, a school operator described a child study team that is part of its community school approach and integrates special education into the charter school's mission and philosophy. Under this approach, teams of staff meet regularly with the parent of each student and, if problems arise, the need for a special education evaluation is discussed. However, in other cases, compromises become necessary. One charter operator described his curriculum as college preparatory, which posed a problem for a special education applicant who wanted some vocational training. In that case, the parent was advised that vocational subjects could not be offered, but an accommodation was arranged by modifying grading for academic subjects.

XII. EMERGING ISSUES

- From the perspective of special education, the most critical issue facing Connecticut charter schools and their LEAs is the split responsibility assigned by state law. There is a need for increased understanding of the locus of responsibility for making decisions about services to be provided for individual students. Participants in this study expressed considerable concern about these matters, and many articulated a need for these requirements to be reconsidered and clarified.
- The study found concerns about the array of services that a charter school must provide. Participants raised issues about the role of itinerant LEA staff in charter schools and how their services fit with the overall program.
- An important emerging need for Connecticut charter operators is increased capacity in negotiation. As described by the state special education consultant, charters find themselves in an "arranged marriage" with their LEAs, and they must interact with LEA administrators on all aspects of providing special education for students with disabilities who attend their school. This is an ongoing responsibility that is complicated by staff changes and new students admitted to the charter over time. Both LEA and charter personnel need to develop skill in negotiating these matters, and additional specific resources are needed to address this area.

Project SEARCH

District of Columbia Case Study Executive Summary[1]

The DC Public Charter Schools Cooperative

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District of Columbia Case Study Methodology

The District of Columbia (DC) was added to the Project SEARCH case studies to track the development of a unique strategy being pursued by charter schools to assist them in meeting the requirements of special education—the DC Public Charter Schools Cooperative. In many ways, charter schools are a new option in the governance structure of American public schools. They resemble small school districts, and there is a growing trend among charter operators to find ways to join with other charter schools for mutual assistance in providing special services. The first example of a formal organization of this type among charter schools was established in DC in 1999. Data for the DC case study were mainly acquired through a participant observer approach. The researcher attended all of the formal and informal meetings and events at which the DC Public Charter Schools Cooperative was planned, established, and developed from December 1998 when the entity was first proposed, through June 2000, the end of the first school year of its operation. In addition, documents concerning charter schools in DC were reviewed, and interviews were held with individuals involved in the charter movement in the city. Additional codes were developed specifically for the analysis of data in this case study since it deviated from the approach used for the other seven cases in the research project.

DC Case Study Findings Related to Special Education in Charter Schools

Despite the fact that the DC case study differs from the others in Project SEARCH, a considerable amount of data related to the key areas used in the case study analysis rubrics were gathered. To further enhance understanding of the Cooperative, an overview of special education in DC charter schools is provided. This background

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[1] This document is the report of one component of a research study funded by the U. S. Department of Education, Office of Special Education (Grant #H324C980032-99). The study, called Project SEARCH, examines policy and practice related to special education in charter schools in seven states and the District of Columbia. This report and all other documents pertaining to this study are available online at: www.nasdse.org/project_search.htm.

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description is organized, to the extent possible, according to the Project SEARCH framework. A full review of the adoption of charter schools in DC is included in the study by Henig, Moser, Holyoke, and Lacireno-Paquet (1999).

I. STATE CHARTER LAWS AND REGULATIONS

- In a number of ways, DC is a unique entity with important ramifications for charter schools. First, DC is a unitary school system exercising the functions of both a state education agency (SEA) and a school district or local education agency (LEA). Confusion can easily result from the division of responsibility that IDEA requires when the same entity fulfills both roles. Also, the matter of laws and regulations is more complex for DC than other states because of the direct and indirect involvement of the U. S. Congress in the local DC government.

- The DC charter school law allows a new charter school to be established for a period of 15 years; and an existing public school or a private or independent school may also be converted into a charter school. There are two operating chartering authorities—the elected Board of Education of DC, and the seven-member Public Charter School Board appointed by the Mayor of DC in consultation with the DC Council from a list of candidates approved by the Secretary of Education.

- From the perspective of special education, the DC law contains a unique provision that defines the relationship between the charter school and the District of Columbia Public School System (DCPS), and significantly affects the way special education is implemented in charter schools. Specifically, each public charter school decides at the time of its application to be treated as a local educational agency or a District of Columbia public school for purposes of special education, and the chartering authority has no authority to approve or disapprove that decision.

II. CHARTER SCHOOL APPLICATIONS AND CONTRACTS

- The two chartering entities in DC have different application forms for approval to open a charter school. The Public Charter School Board requires that applicants describe how they will identify the needs of students with disabilities, how students will be evaluated, who will make decisions about special education services, and who is responsible for delivering special education and related services, and they must indicate "Arrangements for Meeting District and Federal Requirements" including Part B of IDEA and Section 504. The Board of Education requires only that applicants "describe how your school will accommodate special education students."

III. FACILITIES AND ACCOMMODATIONS

- Many of the charter school operators in DC complain that obtaining adequate facilities is often difficult. However, in DC as in the other states included in Project SEARCH, there have been no significant issues raised about facilities in relation to special education.

IV. GOVERNANCE STRUCTURE AND RELATIONSHIPS BETWEEN DISTRICTS AND CHARTERS

- The provision in the charter school law that allows each charter to select its relationship with the DCPS for purposes of special education complicates matters related to governance structure. The decision to be an LEA charter or a non-LEA charter for purposes of special education must be made as a component of the original charter application. For all other purposes, DC charter schools operate independently from the DCPS.
- The nature of the relationship between charters and DCPS has been evolving since the law was passed allowing the addition of charters to the public school structure, and this is especially true of aspects related to special education. General guidance pertaining to special education operations for LEA and non-LEA charters is contained in a memorandum that will be formalized within a planned policy manual for the system.

V. CHARTER SCHOOL FINANCE

- Funding for all charter schools is a separate line item in the DC Budget, and the allocation of funds is made on the same basis as for all students of the DCPS. Supplements for special education are added to the allocations for all charter school students on the same basis regardless of the status of the school as an LEA or a non-LEA for purposes of special education.

VI. EDUCATIONAL SERVICE DELIVERY

- For purposes of this case study, no attempt was made to analyze the process of special education service delivery in charter schools in general. However, some aspects of special education service delivery are discussed in connection with the role of the DC Cooperative later in this report.

VII. DATA COLLECTION AND ACCOUNTABILITY

- Although the chartering authorities are required to exercise oversight of the schools they charter, no mention is made in the law of their specific role in monitoring the provision of special education in their charter schools.
- Each of the two chartering authorities in DC has developed an accountability process for the schools it charters. The procedures include periodic visits to the schools by teams of individuals chosen by the authority. Each chartering authority also requires an annual report, and the law prescribes an independent audit to be arranged by the Board of Education.

VIII. STAFFING

- For purposes of this case study, no attempt was made to analyze the process of special education staffing in charter schools in general.

IX. TECHNICAL ASSISTANCE

- As Project SEARCH has found in other states, there has been only limited technical assistance provided for DC charter schools relative to special education. No formal program of assistance has been developed by the DCPS to address the special education needs of new or operating charter schools.
- The DC Public Charter Schools Resource Center does provide a significant amount of technical assistance for charters on a wide variety of topics including special education. Its director was instrumental in the founding of the Cooperative, and she continues to play a very supportive role in all Cooperative activities. As described later in this report, providing technical assistance for member charter schools is a major role of the Cooperative.

X. TRANSPORTATION

- Any special education transportation services for a charter school student prescribed in the IEP are provided by the DCPS. In DC, as in the other states included in Project SEARCH, there have been no specific issues raised about the provision of transportation for students with disabilities.

XI. ADHERENCE TO PHILOSOPHY AND MISSION

- It was beyond the scope of this case study to analyze the relationship between individual charter schools' philosophy/mission and special education in the DC charter schools.

Design and Implementation of the DC Public Charter Schools Cooperative

OVERVIEW OF EDUCATIONAL SERVICES AGENCIES

- The DC Cooperative is an example of an intermediate level of organization that has existed in many forms in the American public education system. A variety of terms have been used to identify the organized effort of two or more school districts to join together to provide more efficient and cost effective services. The most widely used generic term for such interdistrict organizations is educational service agencies or ESAs. The following is a very brief review of this type of organization. Additional resources are listed in the references at the end of this document.

- Informal partnering between neighboring schools and districts has always been a part of American education, but the first formal statewide ESA system was the Bureau of Cooperative Educational Services (BOCES) established by a New York law in 1948 (Davis, 1976, p. 3-10). Today, there are 38 BOCES in New York providing a wide variety of services to districts that choose to join and that cooperate in making decisions on the activity patterns that the agency will provide for their schools. That acronym is also used in Colorado and Wyoming where a similar network was established in 1965 and 1970 respectively (Stephens & Christiansen, 1995).

- Types of ESAs include special school districts, a regional branch of the state agency, and voluntary cooperatives usually formed under permissive legislation for single or multi-purpose services. The cooperative type includes structures with a variety of attributes. They differ in legal status from relatively informal to formal incorporated entities, and in other areas such as size, functions, type of programs and services, administration, relationship to other components of the educational system, and funding sources.

- It is difficult to determine exactly how many ESAs there are in the country at this time because of the informal nature of many of them. The services provided by ESAs also differ greatly from state to state and by type of organization. Obviously, voluntary type ESAs vary more widely because they are started and controlled by their membership without mandated functions. They usually have a written agreement specifying the design and function of the organization, and most are governed by a board of directors representing the member districts.

- The majority of ESAs are supported through a membership charge and/or fees collected for specific services provided to members and sometimes to non-members. A major motivation of founders of cooperative ventures such as ESAs is the achievement of cost savings that would not be available if each member established the cooperative's services on its own.

THE DC COOPERATIVE

- The development of the DC Public Charter School Cooperative is presented in two main parts. First, to provide a synopsis of the development of this organization, a chronology covers the highlights of the period from late 1998 to June 2000 during which the Cooperative was designed and implemented. Then, a brief analysis of various aspects of the organization is presented to provide insights into the process, the role, and the challenges involved in the establishment of this entity.

CHRONOLOGY

Exploratory Phase

11/98	Proposal to form a collaborative among DC Public Charter Schools - Soon after it was established in 1997, the Public Charter Schools Resource Center began receiving numerous inquiries concerning special education from the new charter schools and those interested in applying for a charter. In response to this growing need, a private contractor, Richard Wenning of Wenning Associates, made a proposal to the Resource Center in November 1998 to explore the feasibility of developing a special education collaborative.
12/10/98	Initial discussion at the Resource Center about forming a cooperative - A contract was signed between the Resource Center and Wenning Associates to explore the feasibility of developing the proposed type of organization starting in December 1998 with the goal of making a recommendation by May 1999.
1/14/99	Exploratory Meeting - Support was expressed by the school representatives for the project and it was agreed that the first step would be an examination of the structure and operation of ESAs in other states to determine options for DC.

2/18/99	Meeting at Options Public Charter School to discuss collaboration models.
4/13/99	Meeting - Data presented included an overview of the 15 initial member schools and their students, and a draft structure for a Cooperative to be implemented under a contract with Wenning Associates. Written commitments to the Cooperative signed by schools.

Implementation Phase

5/6/99	Meeting - Initial Cooperative formation decisions including a Governance Committee and a grant proposal for federal start-up funds; plans for a provider fair.
5/21/99	Governance Subcommittee Meeting - Recommendations to Cooperative Board for initial structure.
5/31/99	Wenning Proposal for Cooperative Implementation Contract.
6/8/99	Board of Directors Meeting - Presentation of Governance Committee recommendations on contract proposal and membership fee.
6/23/99	Board of Directors Meeting - Discussion and adoption of revised contract proposal.

Operational Phase

7/26/99	Begin Cooperative implementation contract with Wenning Associates.
9/9/99	Board of Directors Meeting - Presentations by representatives of nine private provider organizations; initial discussion of criteria for choosing providers for member schools and importance of documentation.
9/10/99	Meeting at DCPS with Anne Gay, Assistant Superintendent for Special Education and special education staff members to brief them on the new Cooperative.
9/28/99	Board of Directors Meeting - Distribution of a basic member service item, "Special Education Start-Up System," containing laws, regulations and other documents. Discussion of Cooperative draft processes for contracting with providers.
10/26/99	Board of Directors Meeting - Discussion of proposed incorporation, review of service referral process, and recruitment of Executive Director.

11/29/99	Board of Directors Meeting - Review of Articles of Incorporation and adoption of Bylaws by the 13 member schools.
12/16/99	Application sent to the Annie E. Casey Foundation for funding for Cooperative.
1/10/00	Choice Strategies Group (CSG) submits a staffing proposal to the Cooperative for 2000.
2/7/00	Executive Committee meeting to discuss CSG proposal. Proposal to Casey Foundation approved.
2/9/00	Special meeting with DC state Medicaid office concerning creating a system for Medicaid reimbursement of special education services in member schools through the Cooperative.
2/23/00	Executive Committee meets to sign CSG proposal for continued services.
3/14/00	Board of Directors Meeting - Review of Cooperative development through draft of an annual report; options for use of Casey funds for direct service to students; discussion of joint Medicaid project and other joint activities with Educational Support Systems, a contractor serving DC charter schools.
4/13/00	Board of Directors Meeting - Set Board meeting dates for a year; review of draft self-assessment tool for charter school special education programs.
4/25/00	New member enrollment meeting at Resource Center.
5/11/00	Board of Directors Meeting - Decision to use Casey funds for student evaluations; set membership fee for 2000-01; creation of Data Information System for Cooperative member schools.
6/15/00	Board of Directors Meeting - Additional funding from Casey foundation; acceptance of 6 new Cooperative members for 2000-01; membership fee set at $1,300 for 2000-01; adoption of procedures for student evaluations under Casey grant in all member schools.

BRIEF ANALYSIS

Formation

The literature on successful ESAs strongly supports the need for effective leadership combined with strong feelings of mutual ownership of the collaborative effort on the part of members of interdistrict cooperatives. Adherence to this basic premise was part of the formation activities of the DC Cooperative as evidenced in their announcement: "The D.C. Public Charter School Resource Center will sponsor the development of a special education collaborative, driven by schools,...." The Executive Director maintained this commitment to member ownership of the organization and skillfully supported group activities to enhance it.

Funding

Another critical issue at the level of an organization's formation is the availability of basic resources. The Cooperative was fortunate to have the backing of the Resource Center to provide an initial financial foundation and to assist in the pursuit of additional funds. Other logistical needs such as a focal location, meeting space, and fiscal management were also met through the initial location of the Cooperative at the Resource Center.

The U. S. Department of Education approved a federally funded start-up grant for the Cooperative of $130,000 for the first year of operation. It freed members to concentrate on developing the organization and meeting their students' special education needs.

The members of the Cooperative formed the Board of the organization and set up a policy on membership fees that would supplement whatever funds could be raised from other sources. The criterion used to determine the amount of the fee was that the fee be large enough to represent a meaningful commitment, but not so large that it would become an unreasonable burden to any member. The fee, although it would be kept as low as possible, was seen as an important indicator of commitment among members.

Additional funds to support the organization and to provide some special education services were received from the Annie E. Casey Foundation. The process of setting equitable policies for the use of direct student service funds provided another opportunity for increasing organizational cohesiveness.

Structure

According to experts in the field (Helge, 1984), the factor most likely to facilitate success in collaborative organizations is a clear, effectively planned and maintained governing structure. Early decisions by core members of the Cooperative addressed this need through the formation of a Governance Committee that made recommendations to the Board as a whole on the governance structure and ongoing procedures for the organization.

Establishment of the Cooperative as a legal entity met another structural need for the new Cooperative. Through the Resource Center, pro bono legal services were arranged, and the necessary documentation was prepared and processed. One of the first actions taken under the new bylaws was design of a process for accepting new members into the Cooperative.

Role

A critical early organizing task of members was agreeing on the exact role for their new organization from among many types of services that ESAs provide. Throughout its formation and early period of operation, the Cooperative has solidified its formal role as composed of three major elements: (a) brokering services, (b) facilitating communication and relationships among members and with other groups in the community, and (c) providing information to and about member schools and the Cooperative as an organization. For example, the first decision was the development of a notebook to contain a compilation of forms, explanations of laws and policies, and other special education related materials that has since become a permanent basic benefit provided to all members by the Cooperative.

Another early action involved taking advantage of the Cooperative as a single contracting entity in order to realize reduced costs for contracted services for students with disabilities such as speech therapy and evaluations. Joint work with private providers helped members to realize cost savings and more control over special education service delivery for their students.

A critical role that the Cooperative fulfills for members in many ways is that of a special education administrator. Most charter schools are too small to afford to hire an administrator to provide this service, and member schools of the Cooperative rely on the Executive Director to meet some aspects of this role and provide information and support to fill the gaps in their knowledge of special education processes.

The Cooperative has taken steps to involve itself in activities with other groups in the DC school community as well. The Executive Director entered into a joint activity with a consultant to develop a self-assessment tool that charter schools could use to appraise their own special education programs. She has also begun work on a project to obtain Medicaid reimbursements for special education services delivered to students with disabilities in charter schools. Additional plans have also been discussed to expand the role of the Cooperative in areas such as combined data management, training programs, and coordination of services among member charter schools.

EMERGING ISSUES RELATED TO THE DC PUBLIC CHARTER SCHOOLS COOPERATIVE

- A number of challenges face the organization if it is to remain a viable component of member special education programs. Some of the organization's needs are:
  - Achieving long term stability through the accumulation of adequate funding sources;
  - Maintaining cohesion among members so they perceive the Cooperative as a source of professional support for themselves as well as a service component for their special education programs; and
  - Enhancing strong ownership of the Cooperative by its members.
- First year decisions have resulted in an emphasis on the Cooperative as mainly a source of indirect services that members can use to meet their special education needs with some movement toward joint provision of direct services for students. It remains to be seen whether the structure will continue to satisfy member goals for the organization.

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Project SEARCH

Florida Case Study Executive Summary[1]

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Florida Case Study Methodology

Project SEARCH conducted eight in-depth case studies of special education policies and practices in charter schools between January 1999 and September 20000. States were chosen as study sites to represent certain points on a continuum in three areas: length of time charter schools have been operating, the size of the charter movement in the state, and the degree of autonomy granted charter schools from their local district (LEA) for purposes of special education. Florida represents (a) a second generation state because its first cohort of charter schools opened in 1996, (b) a "high" size state in terms of the number of charter schools (151 in 2000), and (c) a partial-link state because charter schools are part of a local district which remains ultimately responsible for assuring that all children with disabilities receive a free appropriate public education (FAPE).

Consistent with the procedures adopted for Project SEARCH, the data sources for the Florida case consisted of more than 40 primary and secondary documents, 23 individual interviews, two focus groups, and visits to nine charter schools. Purposeful sampling and chain sampling techniques were used to select the individual informants for the case and to select the counties and charter schools. The key informants were selected based upon their involvement with charter schools and special education and suggestions by other key informants.

Florida Case Study Findings Related to Special Education in Charter Schools

The key areas that Project SEARCH investigated were: state charter laws and regulations, charter applications and contracts, facilities access and accommodations, governance structure, finance, educational service delivery, data collection and accountability, staffing, technical assistance, transportation, adherence to philosophy and mission, and emerging issues. The following is an executive summary of the Florida case study findings in these areas.

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[1] This document is the report of one component of a research study funded by the U. S. Department of Education, Office of Special Education (Grant #H324C980032-99). The study, called Project SEARCH, examines policy and practice related to special education in charter schools in seven states and the District of Columbia. This report and all other documents pertaining to this study are available online at: www.nasdse.org/project_search.htm

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I. STATE CHARTER LAWS AND REGULATIONS

- The Florida law explicitly states that all students, including "students with handicapping conditions shall have an equal opportunity of being selected for enrollment in a charter school." The law also stipulates that district schools are obligated to provide "exceptional student education administration" as one of the services covered by their 5% administration fee. The law contains a unique provision that encourages schools to target their enrollment to specific categories of children, including children with disabilities.

- The 2000 charter school law amendments contain language that explicitly requires charter schools to abide by state code pertaining to children with disabilities. The language was included at the recommendation of the Florida state charter review board in order to clarify that charter schools are not exempt from all Florida School Code. The addition of this language reflects the perception that operators frequently believe that charter schools are waived of all state education statutes.

- The state has not issued additional regulations pertaining to special education in charter schools. Rather, the Florida Department of Education provides policy guidance to charter schools in the form of a Question and Answer document that articulates that charter schools are responsible for serving children with special needs.

II. CHARTER SCHOOL APPLICATIONS AND CONTRACTS

- The state of Florida has developed a standard charter school application that districts may adopt or modify for their use. The application has five main components: (a) academic design, (b) governance and management, (c) finance and facilities, (d) operations, and (e) final documentation. Under academic design, applicants are asked to outline how they plan to meet the needs of children with disabilities. Numerous district administrators noted that they use a modified version of the state's standard application and that the majority of the modifications pertain to requesting additional information about special education.

- Flexibility in the contracting process varies by district. In four of the five districts visited, charters schools are asked to sign what is essentially a boilerplate contract that outlines the rules and regulations that the charter schools must abide by.

- Charters are reportedly signing contracts with districts without really questioning the content of the contract. Districts in turn are frequently writing boilerplate contracts that reflect standard district operating procedures. Charter operators are concerned that districts are using the contract process to reload the regulations that the charter law specifically releases charter schools from. Language from a sample boilerplate contract provided by a district reads: "Exceptional students shall be provided with programs implemented in accordance with federal, state and local policies and procedures..." [emphasis added]. In numerous districts, the sense among charter operators is that districts are reloading standard operating procedures rather than particularly meaningful regulations. Not surprisingly, the contract is a source of tension and frustration between some districts and their charter schools.

- The state law stipulates that charter authorizers have the right to renew and revoke a school's charter for any of the following reasons: (a) failure to meet the requirements for student performance stated in the charter, (b) failure to meet generally accepted standards of fiscal management, (c) violation of law, and (d) other good cause shown.
- In the event a charter is revoked or not renewed, all assets, including property, revert to the authorizing district. To date, only four charter schools have closed in Florida and the first cohort of charter schools is preparing for re-authorization.

III. FACILITIES AND ACCOMMODATIONS

- Charter schools in Florida are responsible for securing their own facilities and assuring that the facilities meet minimum building codes pursuant to state statute. The case study did not reveal any unique issues related to children with disabilities and facilities. However, the charter schools that participated in the study were located in a wide variety of facilities ranging from beautiful state of the art buildings, to former private schools, to dilapidated donated portable classrooms. Locating space for special education classrooms is sometimes a challenge.

IV. GOVERNANCE STRUCTURE AND RELATIONSHIPS BETWEEN DISTRICTS AND CHARTERS

- Charter schools in Florida are authorized by, and are a part of, their local district. Local districts are authorized to charge their charters an "administrative fee" not to exceed 5% of the schools' available funds. In return for the 5% fee, districts are expected to provide:

> *...certain administrative and educational services to charter schools at no additional fee. These services shall include contract management services, FTE and data reporting, exceptional student education administration, test administration, processing of teacher certificate date, and information services.*

- Some charter operators report being satisfied with the status of their contract and the support provided by the district while others expressed frustration at the lock-step nature of the contract and the absence of flexibility extended to the charters. A charter operator explained that some of the problems or apparent resistance to charter schools on the part of districts stems not from malicious intent but from the fact that charter schools are new and districts are still in the learning process themselves. The operator reflected:

  > *I think part of my problem is truly [being] the first school in that district and they don't know....they said they'd never even seen an application until I turned in mine. They said we didn't know if it was good or bad, we'd never seen one before. So we're kind of breaking the ground. You have to choose your battles, too.*

- A district administrator equated having charter schools with raising a teenager: "We've got teenagers. They will quickly tell you 'I don't have to do that because I'm a charter school.' But at the same time they want to be spoon-fed."

- In all five of the counties visited, the degree of communication prior to the charter application and both party's willingness to communicate and work with one another appear to be key factors in determining the character and quality of their formal relationship once the charter opens.

- The law stipulates that charter schools and their sponsoring district must negotiate how they will meet the needs of children with disabilities in a formal legal contract that is negotiated after the charter application is accepted. There is a fundamental power difference between the district and the charter when they are negotiating their contract. The vast majority of the contracts are not actually negotiated but offered to the charters as boilerplates that represent a relationship defined and dictated by the district.

- There are subtle and not so subtle tensions between charter schools and their authorizing districts in the area of special education. An advocate for charter schools summed up what she has witnessed in many districts in terms of special education and district governance in the following manner: "Special education is the 'gotcha' for districts that don't like charters." Special education is an area where the charter schools are obligated to - and really need to - work with districts. Yet the power differential leaves charter schools in an awkward position when the district makes demands or dictates particular processes that may be driven more by district "standard operating procedures" than specific state or federal laws.

- Evidence from state, district, and school level participants indicates that while there are challenges associated with being part of an LEA, there are substantive benefits associated with being part of the LEA for the purposes of special education. A state level charter advocate actively involved with the nascent Florida charter school movement explained:

  > *While I initially really felt like there should be multiple authorities allowed to grant charters and charters should be legally autonomous, I now think that especially in the areas of special education, transportation, and food services, it is very beneficial for charters to be part of their local district. This is the uncomfortable reality that I have reached. I really think that Florida's current law is a good blend of local control and central control. Charters are in control of their basic services but for larger services, they can benefit from being part of the district [i.e., economies of scale for assessments etc.].*

V. CHARTER SCHOOL FINANCE

- Charter schools are provided the full per pupil allocation (approximately $3,400 in 1999-2000 unweighted) that would follow a student enrolled in a traditional public school minus the 5% administrative fee that districts are authorized to retain. Districts are responsible for distributing federal, state, and local funds to individual charter schools. Individual charter schools' budgets are determined by multiplying the number of students enrolled in the school times individual students cost factors (i.e., grade level, special education matrix level, vocational, or at-risk). Charter schools are also provided additional weighted funds from sources such as discretionary millage, equalization allocation, state lottery funds and other state categorical programs. For instance, if a charter school enrolls .05% of the district's total student enrollment, it receives .05% of the district's technology funding provided by the state.

- Districts distribute funds to charter schools on a monthly basis. The charter law dictates that:

  > *School boards shall make every effort to ensure that charter schools receive timely and efficient reimbursement, including processing paperwork required to access special state and federal funding for which they [the charter school] may be eligible.*

  Charter schools have experienced some problems due to districts not forwarding funds in a timely manner. In response to this problem, there is now a state law that requires LEAs to forward money within ten days or be penalized with interest paid to the charter schools.

- Charter schools are responsible for submitting their December 1 headcount to the district in order to generate federal funds for special education. Charter schools are also eligible to seek reimbursement from the Medicaid Certified School Match Program for specific services provided under IDEA Part B or C.

- Florida allocates special education funds based upon services delivered. Informants perceive that the funding system ("the matrix of services") is cumbersome but nonetheless, generally adequate. The goal of the matrix is to remove any incentives to over-identify children with disabilities. The system ideally correlates services to weighted special education dollars. If a child is determined to need a private residential treatment, the district is financially responsible because, for the purposes of special education, the child is considered to never have left the district when he or she enrolled in the charter school.

- Charter operators of special education schools are reportedly struggling to function given the current funding structure. A child with relatively high needs who receives level four or level five funding on the matrix may receive adequate funding when s/he functions within the larger infrastructure of a conventional public school. However, a small charter school designed to serve a small number of high need students cannot realize any economies of scale typically present in a larger school with a diverse student population.

- Some charter operators are unclear about what services the district provides for the 5% administrative fee and what services are supported by federal IDEA funds. For instance, one charter operator explained:

  > *In our situation, our district has said that they use their IDEA funds to do in-service training, and so there are no IDEA funds [forwarded] to the schools. Well, when they're doing in-service programs that are not relevant to our population of students that's not a service to us. The first year they told us they used the IDEA funds to staff staffing specialists. At the same time we were being charged 5% under administrative for salaries. There is some real inequity there and nobody seems to be able to tell us who we go to for a definitive answer on whether or not we should be getting this pile of money.*

- Districts have discretion in the area of distributing IDEA funds to charter schools that are part of the LEA. Numerous charter operators were confused about federal IDEA dollars and unclear about whether they are receiving the money. Some of the confusion stems from the fact that some districts are opting to withhold IDEA funds for specific activities such as targeted professional development for special educators or reserving the funds for high cost students on an as-needed basis. Other charter operators are frustrated due to the lack of control they have over funds that they perceive to be generated by students enrolled in their school.

VI. EDUCATIONAL SERVICE DELIVERY

- Because they are part of their LEA, charter schools must formally and informally negotiate with the LEAs for the appropriate level of control of special education processes and service delivery. The LEA has the ultimate authority and responsibility for assuring FAPE in the charter schools that it authorizes. The districts reportedly feel pressure, and the state is providing financial incentives to encourage districts to grant charters. Once a charter is granted, the district and the charter operator determine how special education is delivered.

- There are two primary models of how special education is handled in Florida charter schools. In the first model, the LEA designates an administrator at the charter school to be the LEA representative. The district remains responsible for students' evaluation but the charter school develops the IEP and delivers services independent of the district. A state policy maker speculated that approximately 10-20% of the charter schools in Florida function in this manner. The more common model is one in which the local district assigns an LEA staffing specialist to the charter school to participate in all special education referral and administrative duties (i.e., student assessment, IEP development, annual reviews, and change of placements).

- In Florida, a staffing specialist is a central office staff member who is assigned to a cluster of public schools to serve as the LEA representative for IEP processes. There is variability across counties in terms of how much contact there is with the staffing specialist. For instance, in one county visited, the staffing specialist holds all the special education forms and manuals and is required to be present and lead all formal meetings pertaining to individual students with disabilities. In contrast, district staffing specialists in other counties permit the charter schools to order and complete their own forms, and the staffing specialist may only attend the initial IEP meeting or triennial reviews. The 5% administrative fee that districts are authorized to retain from the charter schools is to cover, among other things, special education administrative services.

- Charter operators are concerned about the time frame in which the district proceeds through the referral process and specifically the psychological evaluations. As noted previously, due to some charter school contracts that require charter schools to abide by district special education policies and procedures, charters are required to use district designated school psychologists. Timely access to these psychologists was repeatedly cited as a source of frustration due to long delays having children tested. In two of the five districts visited, individual charter schools complained that the evaluation process takes upwards of nine to ten months. The conflict appears to reflect a larger conflict between the mindset of charter schools and districts. The charter schools report that they complain when a child is not processed quickly enough. In contrast, discussions with district staff revealed that the nine to ten month time frame is relatively typical and therefore acceptable. A charter operator explained:

> *The more they [the county] are involved with us, the more we get caught up in the long wait period, too. That is a problem because we want to move quickly. If we get a child with some special needs, I don't want to take 60 days before we do anything. I want to move on this testing.*

- The array of services offered in charter schools is highly dependent upon the type of charter school. General education charter schools are generally serving children with disabilities in an inclusive environment. Charter schools that target at-risk or children with disabilities tend to offer highly specialized education programs designed for a particular population.

- Charter schools are delivering services by providing the services themselves, contracting with a third-party provider, or contracting with the district. A popular model for delivery of service to children with disabilities in general education charter schools is the consultative model. A state policy maker described this model as: "One certified special education teacher supports students with disabilities in multiple classrooms by consulting with the general education teacher. The special education certified teacher oversees and consults with the general education teacher."

- Charter schools must interact with districts for administrative purposes. They need to request copies of files and have electronic access to the district maintained student records. Charter operators reported that they do not receive records in a timely manner or records are incomplete. The lack of records is compounded by the fact that parents frequently withhold information about their child's disability when they enroll in charter schools.

- As part of their local district continuum of services, Florida charter schools are allowed to redirect some children with disabilities back to traditional district schools. The IEP process is ideally the setting in which decisions are made regarding whether individual charter school programs are appropriate for specific children with disabilities. In contrast to concerns raised in other states that charter schools will counsel-out children with disabilities, charter schools in Florida are simply an additional option for children with disabilities.

VII. DATA COLLECTION AND ACCOUNTABILITY

- Charter schools are responsible for reporting data pertaining to student records, student achievement, and finances to their local district. How proactive or reactive districts are in this area varies by district and appears to be influenced by the degree of trust between the charter and the district central office. In some cases, the district is using the data collection and accountability process as an opportunity to reload charter schools with rules and regulations.

- There is an uneasy reality in Florida that the district is responsible for special education but the charters are in control of the delivery of special education services. When probed about accountability, a district liaison commented:

> *That's really fuzzy. The oversight and the responsibility to assure that the child is adequately served rest with the district, but the implementation rests with the charters. So, if the charter does it poorly, incompletely, not to the satisfaction of the parents, not to the letter of the IEP, the responsibility lies with the district to make sure that it's being done well. But, the district isn't actually empowered to make that happen. And that leads to problems sometimes, because it's not well defined in the law.*

- A challenge associated with special education data collection and accountability is charter operators' lack of knowledge and expertise in the area of administrative processes. The lack of knowledge is perceived to contribute to districts' need to monitor. A state policy maker intimately familiar with charter schools described the situation as, "There is a general lack of financial expertise among charter school founders and this plays out for special education for paper issues. There is a looseness of management that needs to be monitored." Monitoring translates into visiting the school often to check on things and to:

> *Go around and check some of the classrooms and make sure there is teaching going on. Do they have resource, Do they have what they're supposed to? Is it safe for the children? Do you have clean bathrooms? And all that. We also do spot checking of attendance bulletins because they're also supposed to keep the attendance bulletin. So when we're out there we select four dates and we ask them for copies of the attendance bulletins for those dates.*

- Monitoring can serve a constructive purpose or a punitive purpose. In some districts monitoring leads to technical assistance while in other districts, monitoring leads to micro-management and cumbersome charter renewal processes. A state level advocate explained that as one component of their monitoring, some of the districts are developing what she characterized as "invasive procedures to review and renew charters."

VIII. STAFFING

- Florida is experiencing a shortage of general and special education and related services personnel. The fact that charter schools typically offer lower salaries, less than full-time employment, and generally less job security were all cited as factors perceived to contribute to the challenge of securing staff. A district liaison explained that in her district, charter schools "need to find teachers with like philosophy or disenfranchised teachers from the public schools or also, young, eager teachers. Some charters are also hiring retired teachers."

- A point of contention in Florida is not only assuring that teachers are certified but assuring that they are certified in the content area in which they teach. District level staff in one county expressed particular concern about a high incidence of teachers working out of their field, and estimated that as many as 60-70% of the teachers in the district's charter schools are in fact teaching out of field. Charter operators in two districts expressed frustration with the district certification process. Operators complained about the long administrative process involved with fingerprinting and processing temporary-permanent teacher certification.

- District staff and charter operators expressed frustration with developing an effective inclusion model for special education with inexperienced teachers. In particular, small charter schools with few staff don't have the depth or breadth to mentor or support young teachers. The limited experience and demands of working in a brand new school are further complicated by the fact that many charter schools are experiencing a high rate of teacher turnover and subsequently, a lack of continuity within the school.

- Contracting with district staff for special education services is only occurring on a limited basis across the districts visited. Charter operators and district staff reported that districts are generally struggling to serve the children enrolled in the traditional public schools and charters are unlikely to receive priority. The charter operators commented that they can access better services in a timely manner by contracting with a third-party provider or hiring full-time staff if available. Florida reportedly has a relatively ample supply of contractors available for whole school management services as well as specialized services such as financial management, auditing, payroll, special education services, and, in particular, related services.

IX. TECHNICAL ASSISTANCE

- Charter schools in all five of the counties visited depend on their local district for the vast majority of their special education technical assistance needs. Technical assistance is provided in the form of informal phone calls, notification of training sessions, and in some districts, specialized training for charter schools in the area of special education. A strategy that at least one district is offering is training solely for charter schools. A district administrator explained:

  > *Having specific workshops just for charter schools has been very helpful. Gearing it to their needs. Sometimes they'll come to district meetings and everyone already knows what's going on and it's like an update. Charter specific training really starts from the beginning. What do you know? What do you want to know?*

- The Florida Department of Education Charter Schools Office and the state supported Florida Charter School Resource Center are two additional sources of technical assistance for charter schools. Charter school operators and district staff involved with charter schools were generally complimentary of the Office of Charter Schools and the Resource Center.

- A challenge to effectively delivering technical assistance reported by numerous district level staff is the high rate of turnover among charter school staff. The loss of knowledge and human resource expense incurred due to training and retraining staff is perceived to be a barrier to charter schools developing special education programs and learning about the policies and procedures that govern special education.

X. TRANSPORTATION

- Charter schools are responsible for providing transportation to their students. In practice, most charter schools are contracting with their local district for transportation services. Some of the larger charter schools are electing to contract with a private third-party provider. In these cases, the charter school must use providers who meet the district's vehicle and driver safety requirements. The state provides reimbursement to charters for their transportation costs using a formula based on the annual state allocation per eligible transported student minus 5% that the district withholds for administration. The formula includes a weighted amount for children with disabilities. Informants did not report any unique challenges associated with transporting children with disabilities enrolled in charter schools.

XI. ADHERENCE TO PHILOSOPHY AND MISSION

- Due to being part of an LEA as opposed to their own LEA, charter schools have the ability to function as part of a larger array of services. The risk of special education limiting a school's ability to adhere to its philosophy or mission is small. Factors perceived to hinder charter schools' ability to adhere to their philosophy and mission are limited funding and regulation by the district. At least one district liaison described the frustration she has witnessed when charter schools try to balance the mission of their school with the individual needs of a child with a disability.

  > *What I get more often are program issues. [A parent calls me and says] 'I want to enroll my child in this charter school but they're not doing what I want them to do.' And so then, the question is, is it something that should fall in line in the range of an IEP and needs to be addressed, or is it a conflict in the fundamental program and purpose of the charter school?*

- Due to the charter schools' close association with their district, special education in some charter schools frequently mirrors special education in district schools. This is not to say that district special education is not laudable; rather it is an observation that raises questions about how innovative charter schools can be within the sometimes extremely prescriptive guidelines imposed upon them by districts concerned about monitoring and compliance.

XII EMERGING ISSUES

- Districts and charter schools must negotiate to determine how to deliver special education in charter schools. There are inherent tensions underlying the negotiations stemming from districts' legal obligations due to IDEA and the charter schools' desire for autonomy.

- There is an emerging conflict between the ideally deregulated nature of charter schools and highly regulated nature of special education. In particular, the conflict reflects a change of thought about how charter schools should be governed. The relationship between district administrators and charter schools represents what some in Florida coined the proverbial "fox guarding the hen house" in that the purpose of charter schools is to create competition for traditional public schools. However, the somewhat uncomfortable reality expressed and demonstrated in Florida is that charter schools benefit from having a relationship with their district.

- Due to the language in the Florida charter school law that allows for the creation of special education charter schools, nearly 30% of the Florida charter schools only serve children categorized as "at-risk," including children with disabilities. While some state informants and individual charter operators praise the special education charter schools, others raised concerns about whether this is the appropriate direction for special education. These concerns are typically disregarded by charter school operators and state policy makers based upon the fact that, because charter schools are schools of choice and parents are choosing to send their child to a wholly special education school, the presumably restrictive nature of the placement is acceptable.

Project SEARCH

Minnesota Case Study Executive Summary

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Minnesota Case Study Methodology

Project SEARCH researchers conducted eight in-depth case studies of special education policies and practices in charter schools between January 1999 and September 2000. States were chosen as study sites to represent certain points on a continuum in three areas: length of time charter schools have been operating, the size of the charter movement in the state, and the degree of autonomy granted charter schools from their local district (LEA) for purposes of special education. Minnesota represents a first-generation charter school state, having passed the first charter law in the United States in 1991. It had a medium number of charter schools with approximately 50 schools in operation when the data were collected. The state is considered a partial-link state with characteristics more closely resembling the no-link states. It is categorized with the partial-link states because of the financial ties charter schools have to students' districts of residence. In all other aspects it is a no-link state.

Minnesota Case Study Findings Related to Special Education in Charter Schools

The key areas that Project SEARCH investigated were: state charter laws and regulations, charter applications and contracts, facilities access and accommodations, governance structure, finance, educational service delivery, data collection and accountability, staffing, technical assistance, transportation, adherence to philosophy and mission, and emerging issues. The following is an executive summary of the Minnesota case study findings in these areas.

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[1] This document is the report of one component of a research study funded by the U. S. Department of Education, Office of Special Education (Grant #H324C980032-99). The study, called Project SEARCH, examines policy and practice related to special education in charter schools in seven states and the District of Columbia. This report and all other documents pertaining to this study are available online at: www.nasdse.org/project_search.htm.

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I. STATE CHARTER LAWS AND REGULATIONS

- In 1991 Minnesota passed the first charter school law in the country. The original law was quite restrictive, allowing only eight charter schools that needed local school board and state board of education sponsorship to open. The restrictive nature of the law resulted in most early charter schools specializing in serving students with disabilities or students at risk for school failure. Currently, there is no limit on the number of charter schools that can be sponsored annually and potential sponsors have been increased to include postsecondary institutions, intermediate school boards, educational cooperatives, and eligible charitable organizations. Local school boards may also choose to convert an existing school to a charter school if 60% of the school's teachers approve the conversion. With the change in eligible sponsors, there is more diversity in the populations served through charter schools.

- For-profit educational businesses cannot apply for charter school sponsorship; they may, however, be the chosen educational service delivery model of a charter school that has received sponsorship via the rules outlined in the law. Since there are restrictions on for-profit sponsorship, there are very few for-profit businesses involved in charter schools in Minnesota.

- Minnesota charter schools are designated school districts "for purposes of tort liability..." (MNS124D.10). As such, they bear the same responsibilities as Minnesota's traditional school districts. The law specifically states that, "A charter school is a public school and is part of the state's system of public education." Teachers from the charter school must comprise at least 51 % of the charter school's governing board.

- The law stipulates causes for non-renewal or termination of the charter school contract as failure to comply with any requirements listed in the law, failure to meet generally accepted standards of fiscal management, violations of the law, or other good cause shown. The law provides a procedure for revocation or non-renewal.

- The charter school law also explicitly states which statutes a charter school must follow when providing instruction to students with disabilities. It is less explicit about students with disabilities when it states, "A charter school may not limit admission to pupils on the basis of intellectual ability, measures of achievement or aptitude or athletic ability" (MNS 124D.10 subd.9). It does state, however, that, "A charter school must comply with [those sections] and rules relating to the education of pupils with a disability as though it were a district" (MNS 124D.10 subd.12).

II. CHARTER SCHOOL APPLICATIONS AND CONTRACTS

- Potential charter operators submit an application/proposal to a sponsoring entity for approval. Once approved by the sponsoring entity, the proposal and affidavit are presented to the Commissioner of Education. Upon approval by the Commissioner, the charter may write a contract with the sponsor and begin operation. The state education agency (SEA) does require that special education information and a plan for special education delivery be included on a charter school application.

- Minnesota charter school law stipulates a number of items that must be included in a contract (not an application for charter). One of these items refers directly to special education or related services.

- In addition to the required application/proposal and contract contents, the prospective charter school operator must attend "mandatory comprehensive training [for] developer and sponsor teams focused on quality proposal development and criteria and required contract components." The SEA also requires an individual meeting with the charter school developer and sponsor within 60 days of the application's submission.

- Specific sponsor requirements are solely at the discretion of the sponsor. With the number of different potential sponsors available in Minnesota, there does not appear to be any pattern regarding sponsor requirements. Sponsors are free to write their own contract, but there was little indication that they are adding more requirements than the law contains. It appears that most sponsors follow the suggested contract provided by the SEA.

- Other than attending the mandatory charter school training prior to the state commissioner's final approval of the application, there is no required training provided specifically for special education. What is available often outlines federal and state special education laws. The charter school association's director of special education has written a special education handbook that many saw as helpful. She also provides technical assistance. However, study participants discussed how inadequate the mandatory type of training was for new operators who do not have a background in special education.

- Since charter schools are considered LEAs, they are expected to have policies and procedures in place for special education and be knowledgeable about the ancillary areas that intersect with these policies and procedures. While many of these are written or outlined in statute, there are other procedures that evolve from those laws. Understanding how the various policies intersect (e.g., Title I, funding, reporting, rules for assessments) is often difficult for charter school operators who have limited exposure to special education.

III. FACILITIES AND ACCOMMODATIONS

- Facility accessibility for charter schools has been an issue in Minnesota. A waiver for facility access was requested but not granted in the original charter legislation. However, there was not specific language in the law concerning facility accessibility and many did not know that the issue was covered under federal law and therefore accessibility was required. Most of the charter schools are now accessible. Some charter school operators, however, believe there is a waiver for this and have not complied with federal law. The state has allowed these schools some time to reach compliance.

- One of the larger issues is finding space that is accessible and still affordable. The state now provides lease-aid to charter schools to compensate for their facilities needs. The aid appears to be having a positive impact on the accessibility issue. A charter advocate noted, "Lease-aid helps the landlord [make the building accessible]. It has helped the landlords meet the requirements. Lease-aid has helped on improvements to buildings. If it wasn't for that, [charter schools] would be pushing the envelope all the time."

IV. GOVERNANCE STRUCTURE AND RELATIONSHIPS BETWEEN DISTRICTS AND CHARTERS

- In the area of special education, the law refers to compliance for charter schools in the same manner as it does for traditional school districts. A charter school must comply with special education sections of state law and rules relating to the education of pupils with disability as though it were a district.

- Special education services are ultimately the responsibility of the charter school. They may, however, contract with local school districts, cooperatives, consultants or others for the services. If they do not have a contractual arrangement with an LEA, they may bill back any excess special education costs (those costs that are not covered by state and federal funds the charter school has received) to the student's school district of residence. Therefore, most, if not all, charter schools have a financial relationship with the school districts of their special education students since state and federal funding rarely covers the full cost of special education services. In areas other than finance, the extent of the charter schools' relationship with LEAs varies. Some have a cooperative arrangement; for others there is little, if any, direct contact.

- Recently, the state has requested each charter school to have a certified director of special education either on staff or in a consulting role to review the various special education requirements and to oversee special education delivery. Some have hired consultants, some use the association's director, and others have someone on staff who provides this service.

V. Charter School Finance

- All basic and supplementary state and federal funding flows directly to the charter school. The charter school law explicitly states, "General education revenue must be paid to a charter school as though it were a district." Minnesota charter school law also specifies that the special education dollars follow the student to the charter school and under what circumstances charter schools can bill excess special education costs back to the resident school district. The billing back of excess special education costs, beginning in the 1996-97 school year, is the only characteristic of Minnesota's charter school law and special education interface that defines Minnesota as a partial-link state in relationship to special education. In all other respects, Minnesota law clearly defines charter schools as LEAs and as such they are not linked to other local education agencies.
- In order to receive the excess cost funds, the charter school must notify the resident school district of the student's enrollment during each school year. The charter school must send the IEP and a required billing notification form in order to submit the actual bill and subsequently receive the funds. This is calculated on an individual basis and each student's costs must be billed separately.
- The charter school receives a per-pupil amount based upon the state's average per-pupil general revenue plus a referendum allowance based upon the student's resident district's referendum status. In addition to this calculation, some per-pupil amounts are subtracted from this number and others, such as funding based upon need for basic skills and transportation, are added to the amount. It is a complicated funding formula that is written into law for charter schools.
- Minnesota uses a fairly sophisticated method of tracking special education students and their funding. All special education expenditures must be reported on a state-required system. From the data provided, special education payments are made directly to school districts and charter schools. Minnesota's special education students are funded through categorical aid that is calculated on:

> *A percentage of special education teacher salaries; percentage of special education paraprofessional salaries; percentage of contracted services for special education students; and percentage of materials, supplies and equipment acquired to meet the special instructional needs of special education students* (Charter School Leader's Handbook; Minnesota Association of Charter Schools Special Education Project).

- Special education funds are provided on the actual year's expenditures during the first two years of the charter school's operation. In the third year and beyond, the charter school is paid on the data entered in the state system from two years prior. The two-year lag is the same as the school district lag time. The first year's special education funds are often reimbursed three to six months after they are expended. The lag time in receiving funds can be a hardship for some charter schools.
- Some special education costs, such as staff benefits, are not covered under the bill back arrangement and come out of the charter school's general fund.
- Nearly all participants interviewed understood the essential elements of Minnesota's special education funding. They knew that state and federal monies flowed to the charter school and that the charter school could bill back the resident school district for any excess costs. What was less clear was how to navigate the financial system.
- While some study participants saw financial accountability and reporting as being problematic, others report the tension that arises when a charter school tries to implement special education in an innovative manner and still be eligible for special education funding. Some see the reporting requirements as incomplete as some special education delivery innovations are not reimbursed under the current definitions.
- The knowledge factor is an issue for charter schools and all Minnesota school districts. Those responsible need to understand a complex finance reporting system. In order to be in compliance and to receive their special education monies in a timely fashion, they must understand how each reporting system operates. Some operators, however, do not recognize the need to understand the special education finance system until they realize their lack of reporting has resulted in an absence of funds to support or implement a program.
- In general, all charter schools and school districts believe there is inadequate funding for special education. Most school districts must fund a rather large portion of their special education programs from the general education fund as state and federal funding is inadequate. Charter schools are in a better position in some ways than traditional school districts. Since they can bill back excess costs, they only have to

pay those costs that are not covered by state, federal, or the resident school district.

- Minnesota's excess cost bill-back system creates an interesting dynamic as the charter school has the total responsibility for IDEA compliance, but the resident school district must pay for any costs over and above state and federal funding. The arrangement does, however, protect the charter school from the concerns of bankruptcy if faced with a high cost special education student. In that case, the excess cost of an expensive student would be billed back to the resident school district.

VI. EDUCATIONAL SERVICE DELIVERY

- Minnesota charter school law stipulates that, "A charter school may not limit admissions to pupils on the basis of intellectual ability, measures of achievement or aptitude, or athletic ability." The law uses this language and does not include nondiscrimination language in regards to disability. It does state, "A charter school shall enroll an eligible pupil who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In this case, pupils must be accepted by lot."
- Admissions become an issue for charter school operators if they are unaware of the special education law. With the help of a statewide charter school director of special education, there are now fewer charter school operators who are not aware of the need to admit students with disabilities. At this point in the charter school evolution, the knowledge issue may rest more with the parents of students with disabilities, who may not understand the right for admission. Charter schools sometimes have the public image of a private school and parents may not always realize they have full access to the school.
- There appears to be variability within the IEP process, with veteran operators being more knowledgeable than newer operators. New operators were still struggling with what special education means for their school and how they are going to comply with IDEA.
- As part of the IEP process, schools are required to provide for an array of services. Since Minnesota charter schools are considered LEAs for purposes of special education, they are expected to provide all of the services needed to serve all students. Some charter schools contract with a traditional school district or educational cooperative to provide these services. Not all traditional school districts or cooperatives are open to a contracting relationship. Many school districts are vying for qualified staff to serve their own students and do not believe they can afford to assist the charter school. Others see the school district's ability to provide ancillary and other services as a competitive advantage and

feel no obligation to assist the charter school. Both the staff shortage and the lack of knowledge regarding who is responsible for providing services sometimes results in the charter schools counseling families to look elsewhere for the education of the student with a disability.

VII. DATA COLLECTION AND ACCOUNTABILITY

- Charter schools in Minnesota are treated as LEAs for data collection purposes. Every charter school must complete all forms that are required of LEAs. That includes financial information, general education enrollment data, statewide assessments, and data on staff.
- Since Minnesota charter schools are considered LEAs, they are under the same special education monitoring requirements as traditional school districts. They are monitored through the SEAs special education department every four years with a corrective action plan needed in the fifth year if problems are found. Charter schools must complete the "Total Special Education System Application" that includes annual assurances of compliance with IDEA, program and staff expenditure data, and policies and procedures.
- There have been some issues related to monitoring. The state is behind in monitoring all the schools that are not in compliance with the state requirements; therefore, the department investigates when a complaint is lodged. The tension between charter schools having adequate services that follow the intent of IDEA and the reality of developing a special education infrastructure is often apparent as monitors visit the schools. The state takes the stand that, rather than being punitive, they want to teach charter schools how to comply.
- Until recently sponsors did little monitoring of any aspect of charter schools. The law stated sponsoring entities needed to provide oversight, but most did not see it as their responsibility since the charter schools were considered independent educational entities. The SEA has clarified the monitoring issue and as a result, sponsors are beginning to provide more oversight. The requirement for a charter school designated director of special education is another way the state is trying to provide more monitoring on a regular basis.
- Test results for charter schools are reported in the newspaper along with those of traditional school districts if a large enough student population has taken the test. In general, charter schools have not fared well on the standards tests. Even so, there was little concern that testing students with disabilities was a factor in accountability.
- The state does require that each charter school identify two academic goals and two nonacademic goals annually and report the goals and the

results from assessments each fall. There are no stipulations that they include students with disabilities in the measurement of the goals. At present no state entity is disaggregating the data by disability status. Special education is not one of the areas that must be included in the annual report. Charters only need to provide the percentage of students with disabilities at the school.

- Recently the SEA distributed an accountability framework outlining the expectations for charter schools. In addition, all Minnesota students are required to take the Minnesota Comprehensive Assessments administered in third and fifth grade and the Test of Basic Standards administered in eighth and tenth grade. In accordance with IDEA, students whose IEP exempts them from the test do not need to take it, but the IEP team must choose an alternate assessment. This did not appear as an issue in the interviews; no charter school chose to use an alternate assessment.

VIII. STAFFING

- The shortage of qualified and certified special education teachers impacts charter schools' abilities to implement the IEP process and comply with IDEA. There is not only the matter of finding a certified teacher. Most charter schools are small, so they may only need a half-time or quarter-time teacher. Finding part-time teachers is even more difficult and exacerbates the staffing problem as some teachers try to fulfill the obligations by combining responsibilities, resulting in a more than full-time position that is not fully reimbursable. A related issue is in the area of licensure. Many of the staff members have special education licensure but not in the specific disability area of a charter student. They are reluctant to spend time in classes when there is so much start-up responsibility, yet the school needs their services.
- The staff shortage can affect the relationship between the charter school and neighboring school districts. Each accuses the other of "robbing" them of their special education or regular education teachers. The accusation can cause friction that results in little cooperation between the schools. The number of teachers retiring exacerbates the staff shortage. All schools and school districts are experiencing teacher shortages and are less willing to cooperate.

IX. TECHNICAL ASSISTANCE

- The state has funded a charter school director of special education through federal discretionary funds for the past few years. The model was chosen so that the charter schools would have autonomy in the area of special education, but would also receive needed technical assistance and guidance. The findings from the case study suggest overwhelming support for the model and the impact it has had on increasing the knowledge base of operators and increasing compliance with IDEA. One operator summed up the views of many when she said, "Without [the association's director], we would be swimming upstream without a paddle."

- Not all charter schools are accessing the association's director. Some contract for additional services by hiring retired directors of special education to assist in understanding the financial requirements necessary to receive funding. Others rely on their special education staff to provide technical assistance. To date, the SEA has provided limited special education technical assistance specific to charter schools. They do invite charter school operators to all training provided by the department and as of the final interviews, were developing a more extensive training program for charter schools.
- Special education monitors often offer technical assistance as they work with the charter schools to be in compliance. Many of the monitors have added that role to their responsibilities, but it has not been a formally defined role, and there have not been any additional monitors added to assist the charter schools. Staff members from the special education department also review the initial application and work with individual charter schools prior to opening. One monitor is assigned to each charter school.
- One of the main issues around technical assistance is the steep learning curve for many operators. It is often not enough to train them in the law or what is required. They need training in the process of developing a working relationship that allows a deeper understanding of the law. Some of those interviewed noted how complicated it can be when an official realizes the charter school is out of compliance, yet knows the operators are unsure of their responsibilities.

X. TRANSPORTATION

- For general transportation to and from school, Minnesota charter schools may have the school district in which the school resides provide transportation for the district students who attend the charter school. If they do not have the school district provide transportation, they receive transportation aid directly and must provide transportation themselves. Neither the charter school nor the school district is responsible for providing transportation to students who live outside the boundaries of the school district in which the charter school is located. Such students may receive transportation aid if they can show financial need.

- Special transportation is provided for students with disabilities only if it is written into the IEP. In those cases, special transportation is handled as if the charter school were a school district. Charter schools receive transportation aid for the student, supported through special education transportation aid. Funding has a two-year delay, and there is no basis to calculate the aid. The funding process further complicates operators' understanding of special education.

XI. ADHERENCE TO PHILOSOPHY AND MISSION

- In Minnesota, the evidence suggests adherence to philosophy and mission in special education varies depending upon the school.

XII. EMERGING ISSUES

- There were three consistent themes that emerged during the Minnesota data collection effort. One centered on the role that knowledge of special education plays in successful implementation of both charter school law and special education law. It is generally known that charter operators may not have sufficient background in special education, but what emerged from these interviews is the belief that what needs to be "learned" is more in the area of an understanding and belief system, rather than just the facts about special education. Knowing the law is not enough to provide for the needs of students with disabilities within charter schools. Operators and other personnel need to understand why they are providing special education and how it aligns with their mission.
- The second theme emerging was in the area of innovation and special education. Many discussed the need to review how IDEA is interpreted and how that interpretation can lead to innovation in special education. There was a concern that charter schools were not aware of the opportunities that IDEA could afford, but rather saw it as a requirement they had to meet. Nearly all agreed that the charter school staff had the best interests of the students at heart and that the view of IDEA as an endless paper production line needed to be shifted to IDEA as an opportunity for innovation.
- The third theme that emerged was the importance of a central special education "guru" or leader who could lead the charter schools through the process as well as bring them to a point of understanding about why special education was important. Incorporated into this theme was the importance of monitoring and working with the state to determine the best way to deal with issues. There was an interesting dynamic. Many believed charter schools were out of compliance and needed to come into compliance to adequately serve students with disabilities.

But, there was also the sense that the operators and staff members were not intentional in their desire to neglect the law, but rather needed assistance in seeing how they could work with the law. Many saw a special education leader as being central to making the shift in paradigm occur.

Project SEARCH

North Carolina-Case Study Executive Summary[1]

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North Carolina Case Study Methodology

Project SEARCH conducted eight in-depth case studies of special education policies and practices in charter schools between January 1999 and September 2000. States were chosen as study sites to represent certain points on a continuum in three areas: length of time charter schools have been operating, the size of the charter movement in the state, and the degree of autonomy granted charter schools from their local district (LEA) for purposes of special education. North Carolina represents (a) a third generation state because its first cohort of charter schools opened in 1997, (b) a "medium" size state in terms of number of charter schools (87 operating in 2000), and (c) a no-link state because charter schools are independent LEAs that are solely responsible for assuring that all children with disabilities receive a free appropriate public education (FAPE).

Consistent with the procedures adopted for Project SEARCH, the data sources for the North Carolina case consisted of more than 50 primary and secondary documents, 29 individual interviews, a single focus group, and visits to ten charter schools. Purposeful sampling and chain sampling techniques were used to select the individual informants for the case and to select the counties and charter schools. The key informants were chosen based upon their involvement with charter schools and special education and suggestions by other key informants.

North Carolina Case Study Findings Related to Special Education in Charter Schools

The key areas that Project SEARCH investigated were: state charter laws and regulations, charter applications and contracts, facilities access and accommodations, governance structure, finance, educational service delivery, data collection and accountability, staffing, technical assistance, transportation, adherence to philosophy and mission, and emerging issues. The following is an executive summary of the North Carolina case study findings in these areas.

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[1] This document is the report of one component of a research study funded by the U. S. Department of Education, Office of Special Education (Grant #H324C980032-99). The study, called Project SEARCH, examines policy and practice related to special education in charter schools in seven states and the District of Columbia. This report and all other documents pertaining to this study are available online at: www.nasdsc.org/project_search.htm.

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I. STATE CHARTER LAWS AND REGULATIONS

- North Carolina charter schools are LEAs and as a result, are solely responsible for the delivery of special education. Outside of the general statement regarding their LEA status, there is very limited language in the state charter law directly pertaining to special education. According to the state charter law, charter schools "shall not discriminate against any student on the basis of ethnicity, national origin, gender or disability" (North Carolina G.S. 115C-238.29F[g] [5]). And, "The school shall comply with policies adopted by the State Board of Education for charter schools relating to the education of children with special needs."
- North Carolina did not develop additional regulations regarding special education in charter schools. Rather, the closest thing to regulations is policy guidance in the form of a Question and Answer section in the state developed "official" charter school application. The Q & A section of the application articulates the definition of special education and how special education is administered, delivered, and funded.

II. CHARTER SCHOOL APPLICATIONS AND CONTRACTS

- Three entities may grant charters in North Carolina: local boards of education, a constituent institution of the University of North Carolina, or the state board of education. The state developed an application and application process/timeline. To date nearly all of the charter schools have been granted directly by the state.
- Between 1997 and 2000, the state nearly reached the state mandated 100 school cap and there is recurring discussion among state policy makers and charter operators about the cap. Charter operators expressed concern that the cap on charter schools is driving heightened accountability for the already existing charter schools.
- To date, North Carolina has revoked six of the charters granted. An additional seven schools have voluntarily turned their charters back into the state, including three schools that never opened their doors. A revocation in December of 1999 was directly due to problems associated with special education. The high rate of revocations in North Carolina, 14% in comparison to a national average of 4% (Nelson et al., 2000), raises questions about whether the state has an effective or defective charter application and accountability process.

- The state application requests only limited information regarding how charter applicants intend to serve children with disabilities. Applicants that specifically designate that the purpose of their school is to serve children with "exceptionalities" are expected to include how they plan to serve this target population. Outside of this specific group, the only section in which applicants must address special education is under the financial plan. Applicants are asked to project special education enrollment and these numbers dictate their special education funding.

- The charter application is evolving as the state becomes more experienced at granting and monitoring charters. The state is reported getting better at utilizing the application process as a key point of contact to inform charter applicants about their special education responsibilities. A state level policy maker explained:

> *The state has grown increasingly rigorous in the chartering process and is now more seriously addressing special education in the chartering process. If you look at the interview process with each cohort of schools, special education is being structured, [during the initial application cycles] no questions were asked, now, it is being dealt with during the application process. There is evolution, you learn from your mistakes.*

- As independent LEAs, charter schools are not subject to district-level standard operating procedures or regulatory reloading at the district level. However, the charter schools in North Carolina are struggling to understand the rules and regulations that govern special education and how to appropriately implement the necessary processes to abide by these rules and regulations. In addition, as LEAs, North Carolina charter schools are enjoying some flexibility in how they deliver special education within the parameters of the state special education rules and regulations that are monitored by the Department of Public Instruction (DPI).

III. FACILITIES AND ACCOMMODATIONS

- As documented widely for charter schools nationwide, obtaining adequate facilities is often a difficult issue. Due to the fact that some charter schools are located in non-traditional - and at times inadequate - spaces, finding classrooms for special education pull-out services can be difficult. Charter operators participating in a focus group explained:

> *Facilities are an issue. The schools have buildings and there are not really access issues, as they must meet ADA in order to open. However, due to frequently small spaces, finding room for special education services is a real challenge, space is a problem. It is a challenge to find a room for OT or any kind of pull-out.*

IV. GOVERNANCE STRUCTURE AND RELATIONSHIPS BETWEEN DISTRICTS AND CHARTERS

- Charter schools in North Carolina are technically considered "free-standing public schools" as opposed to LEAs. For the most part, in practice, charter schools are autonomous school districts. To date, the vast majority of charter schools are authorized by and accountable to the state board of education and have a very limited relationship with their local district. Nevertheless, even if the local district does not authorize charter schools, the district can hinder or help their success. Districts can hurt charter schools by forbidding them to use school facilities such as proximate playgrounds, not forwarding mail in a timely manner, or not sharing surplus equipment. Districts can help charter schools by making a school facility available, contracting out school lunch and transportation services, or allowing charter schools to purchase surplus equipment.

- While many charter school advocates and operators view independence as central to the charter concept, one operator reflected on the inefficiencies involved with traditional districts and charters operating separate but frequently parallel school systems:

  > *There are so many charter schools and LEAs duplicating just because they have too. There is so much repetition, they are reinventing the wheel, and everyone is reinventing, repeating the services. It is like a four-wheel drive vehicle that now has 10 wheels. The state could help coordinate the relationship if the state could say, we are going to try and bring the system together. However, traditional and charter schools don't want the state to be more involved.*

V. CHARTER SCHOOL FINANCE

- For academic year 1998-1999, per pupil allocation ranged between $3,000 and $5,500 depending on the size and wealth of the district in which the charter school was located. On average, the state provided approximately $3,500 and local districts provided $1,000 per pupil to the charter schools.

- A challenge facing North Carolina charter operators is the adequacy of the special education funding given the small size of charter schools. North Carolina funds special education using a non-weighted formula and caps special education at 12.5% of the student population. While charter schools are counted as part of their district for purposes of determining the cap, the money flows directly from the state to the charter schools without the district serving as a middle agent. Due to their small size, charter schools cannot capitalize on any economies of scale and, as a result, if their population significantly exceeds 12.5% or they enroll a high percentage of children with greater needs, they struggle to afford special education. If an LEA reports a greater percentage of their enrollment as disabled, their funding is further divided in order to support all children with disabilities. There is also an apparent lack of consistent, clear information about what resources are available and how charter schools can access funds for their school and specifically for special education.

- Special education funding for the first year of operation is a challenge for charter schools. In North Carolina, charter schools receive their special education funding based upon a hypothetical projection of who will enroll. If a school does not accurately predict enrollment, it can experience a significant financial shortfall. At this time, the state has not taken steps, outside of applying for federal Title IX funds, to assist charter schools in addressing the fiscal challenges associated with the start-up phase of operation and specifically the challenge of projecting their enrollment of children with disabilities.

- In addition to the traditional federal, state, and local education dollars, charter schools are billing Medicaid for specific related services, tapping into various state and county services such as mental health services to serve their children, and pursuing private fundraising. According to one operator, "This [Medicaid] is big bucks, this is how we pay for outside therapy, otherwise we could never do it." A charter operator explained:

> *Finance is the major issue of concern for the charter schools regarding special education. We are meeting student's need by being creative and accessing outside resources...It is just a matter of learning to juggle your penny-creative allocation and learning to write grants. If we don't write grants, we will not be a cut above. We can work out our finances at the building level, no one tells us how to spend our money. As long as we account for it in particular categories, we can spend it, as we want. Traditional public schools don't have this flexibility.*

- As independent public schools, charter schools are legally responsible for the costs associated with private or residential placements of enrolled children. In practice there is an apparent gap between state level policy and reported practice. Two charter operators who participated in the study stated that if a child needs private placement, the responsibility (i.e., cost) reverts back to the district. The fact that the operators explained the policy without hesitation indicates that they may not be fully aware that referring students back to the district is illegal because charters in North Carolina are considered LEAs for the purpose of special education service delivery.

VI. EDUCATIONAL SERVICE DELIVERY

- As independent LEAs, charter schools either hire in-house special education teachers or contract for individualized services such as occupational, physical, and speech therapies. Contracting with a local district occurs infrequently.

- Enrolling in a charter school is typically considered a change of placement and depending on how the charter school plans to serve individual students with disabilities, enrollment should trigger an IEP review. In practice, there is a great deal of variability across the state in how charter operators learn that a child has a disability, how proactive they are in updating and implementing the IEP, and the degree to which children's IEPs are met.

- Charter school operators report that when parents enroll their children in charter schools they frequently withhold information regarding disability. In addition, charter school operators from across the state reported that districts don't always forward students' records in a timely manner or forward incomplete records. As a result, charter schools frequently start the academic year with inadequate information about their students' special needs. When a child's disability is revealed, the school is in catch-up mode regarding the IEP and delivery of services. Charter operators in the majority of the schools visited noted that as they have become more established and accepted, district staff are getting better about forwarding complete records in a timely manner.

- A charter school administrator perceives that the IEP process in charter schools is more conducive to family involvement. She explained that, "Parents are involved, there is an exchange, and it is informal so you don't get parents that are immediately rigid [in the IEP meeting]." The administrator perceived that the school's ability to better engage parents is a real strength of special education in the charter school.

- With the exception of charter schools specifically targeting children with disabilities, all of the charter schools visited report using inclusion and some pullout services to serve all of their children with disabilities. A principal noted that his model of inclusion with tutoring and some reading pull-out is working particularly well for children with language and writing disabilities. Nearly all of the charter operators interviewed perceive that small class size is their greatest asset. State policy makers and advocates repeatedly commented that charter school operators are frequently ill equipped to meet the needs of children with disabilities and naively believe that small class sizes will negate the need for specialized services.

- Charter operators expressed frustration because they perceive that they are more progressive about serving children with disabilities in inclusive settings than the state. Charter operators noted that they have to fight with the state to use the inclusion model.

- Statewide, charter schools enroll a slightly higher percentage of children with disabilities than traditional public schools: 13.8% in charter schools v. 11.5% in traditional public schools (Nelson et al., 2000). However, evidence from discussions with individual charter operators, district staff, and state policy makers indicates that charter schools are subtly and not so subtly counseling children away from charter schools. Although the percentages indicate that charter schools are enrolling their proportion of children with disabilities, they are typically enrolling students with mild disabilities and counseling children with more severe disabilities back to the traditional public schools. A state policy maker commented:

  > *Charter schools are counseling kids away from charters and charters think that this counseling-out is legal. There are some [charter schools] that are doing what they are supposed to be doing. However, the charter schools don't think that they have to serve these [children with disabilities] kids.*

- A discussion with a charter principal demonstrates one example of the subtle line between deciding what the best placement is for a child and counseling children away from charter schools. He thinks his philosophy of inclusion is not attractive to all parents. When questioned, he informs parents that the school practices inclusion within the classroom with added tutoring and supports when needed. He provides parents with a tour of the school and has an "open dialogue" in order to educate parents about the schools' goals and the big picture. He further explained that, "Parents have the choice of shopping around for the best fit, education is not a fashion but a comfort." The subtle and not so subtle nuances of the dialogue between charter staff and parents of children with disabilities represents a gray area regarding whether children with disabilities are provided equal access to charter schools. In fact, a special education teacher commented that, "There is counseling-in and -out but this could also be considered part of the placement of the child."

- A concern raised by nearly all of the charter operators is the reality that the state special education funding system and small school size put charter schools in a precarious financial position in which they have very limited funds to rely upon to serve high cost students. Charter operators contend that due to their size, they are disproportionately affected by the high cost of special education services for some children. A state charter school advocate expressed concern about the current practice of counseling-out and noted that, "Little by little, parents are going to realize that they are legally in their right to go to charters, and in time parents will challenge the schools." Counseling-out is reportedly occurring in both directions because district schools are counseling potentially difficult children to charter schools.

VII. DATA COLLECTION AND ACCOUNTABILITY

- North Carolina takes data collection and accountability very seriously and has been proactive about oversight of its charter schools and monitoring special education in charter schools. The state policies and procedures regarding data collection and accountability for charter schools, and specifically special education, emanate from the state accountability plan, state charter school legislation, and, finally, state special education policy.
- The central component of the state's academic accountability system is data collected and reported as part of the ABC Accountability plan. The state considers both school performance and improvement, thereby addressing concerns raised by traditionally high performing as well as low performing schools. High performing schools are typically concerned about being penalized for lack of growth while low performing schools are concerned about being penalized for low scores. Poor performance according to the ABC's measures is grounds for charter revocation. According to the 2000 ABC test scores 40 schools across the state were characterized as low performing; 50% of these were charter schools.
- The state charter advisory committee tracks charter schools carefully and makes policy recommendations to the state board of education. Informants at the school and state level as well as individuals representing charter advocacy groups all perceive that the advisory committee is a powerful actor in state charter school policy development and implementation.
- The high level of monitoring, and in particular financial monitoring, provides the state with monthly updates about the fiscal solvency of the charter schools. A member of the state charter advisory committee explained that the committee did not start out being proactive about monitoring charter schools' financial stability but over time, "The state found that as charters floundered financially, it had to more closely monitor charter school finances."
- The state adopted a policy for financial and governance non-compliance in April 2000 that is part of the state's charter school accountability process. The essence of the policy is that if a charter school does not comply with state mandated rules and regulations regarding financial reporting and governance procedures, the school is placed on caution-

ary, probationary, and finally disciplinary status. Depending upon the severity of the infraction, at any point during this monitoring process, the state can freeze a school's funds by revoking access to the cash management system.

- The charter renewal process has two-stages: a school directed self-study that examines the school's operation and future goals and a DPI report. The DPI report summarizes the charter school's compliance with rules and regulations in the areas of the ABC Accountability Plan, financial compliance, governance structure, exceptional children's services, and school enrollment. The substance of the review, and particularly the weight of special education, have yet to be documented because the first charter schools will not go through the renewal process until academic year 2000-2001.

- North Carolina law requires charter schools to collect data regarding all children enrolled in special education, and the charter schools are held accountable for the data by DPI. At the onset of the charter school movement, DPI made a policy decision to postpone standard special education monitoring until schools were in their third year of operation. Audits are scheduled rather than conducted by surprise. In 1998, at the request of the State Board and the General Assembly, DPI Exceptional Children Division was asked to do an audit of charter schools in order to monitor compliance with special education regulations and use of funds generated by special education students. During the 1998-1999 school year, the Division audited 14 charter schools. The audits also included a monitoring component. The audit examined the schools' special education headcount and special education staff utilization. If a school was found out of compliance with the auditing component, the state could reduce budget allocations associated with special education. The monitoring component examined school LEA policies and student records in terms of compliance with federal and state laws and regulations. If a school was found out of compliance with the monitoring component, it had to submit a Corrective Action Plan to DPI.

- In addition to the standard scheduled audits, charters may by audited in response to parental complaints. Depending on the findings from the investigation of the parental complaint, a full-blown audit may be triggered. At the time data were collected, there were two complaints pending with the federal Office of Civil Rights regarding charter schools and children with disabilities.

- Special education data collection is affected when charter operators are not familiar with the federal and state special education head count procedure. If a charter school does not submit the information to the state or the data are incomplete, there are financial repercussions for the charter school. A DPI official noted, "They [the charter schools] don't even know how they have to do a head count. People are wearing many hats and the special education leadership at the individual charters may not be very knowledgeable about special education."

VIII. STAFFING

- North Carolina charter schools are solely responsible for hiring, supervising, and monitoring special education staff according to state special education policies and procedures. Federal and state law requires that special education teachers and related services professionals have proper licensure/certification. North Carolina's charter school law dictates that 75% of the teachers in kindergarten through fifth grade and 50% of the teachers in sixth through twelve grade must be certified. This certification requirement initially caused confusion regarding whether charter school special education teachers had to be certified. Charter operators interpreted the state statute as including special education teachers and in some instances chose to have the uncertified teachers teach special education. State level policy makers have struggled to clarify that federal and state statutes override the charter statute and that all special education teachers must have appropriate certification.
- Recruiting, hiring, and retaining certified special education staff is a challenge for charter schools across the state. Due to the generally small size of charter schools' teaching faculty, they struggle to hire a cadre of teaching professionals typically necessary to support a full array of education services. An individual special education teacher may potentially be required to serve a diverse array of students.
- Strategies that charter schools use to fill special education slots include hiring retired district special education staff and hiring itinerant staff who supervise uncertified special education staff. Most charter schools contract with outside private providers for speech, occupational, and physical therapy as needed. Contracting with the county is not a particularly attractive option to charter schools. Charter schools are also reportedly tapping into community resources such as private providers and various institutions of higher education.

IX. TECHNICAL ASSISTANCE

- North Carolina is still in the process of developing its technical assistance infrastructure for charter schools. A member of the state charter school advisory committee characterized technical assistance and charter school needs as follows:

> *As with any newborn, growing pains have occurred. The State Board was catapulted into the arena of school choice. The Department of Public Instruction was required to nurture a newborn that often had little or no experience in public policy, in public finance, or in a new, malleable accountability system. Traditional public schools were forced to become acquainted with a new neighbor who often did things just a little bit differently than was custom.*

- North Carolina charter schools can access a diverse number of entities for their technical assistance needs. The primary sources of assistance are the state charter school advisory committee, DPI, Office of Charter Schools and other specific departments, State Charter School Resource Center, State Charter School Association, Charter School League and other outside affiliations such as community organizations or education management organizations (EMOs). Partnering with a community entity, an established school model, or being managed by a private EMO provides an infrastructure and external source of technical assistance.

- State policy makers expressed frustration regarding the challenge of providing adequate and appropriate technical assistance to charter schools while attempting to honor the schools' quest for autonomy. One state policy maker lamented, "Charters want to be free but then, they complain that the state has not helped them enough." Interviews with charter operators verified this apparent disconnect among charter operators striving for independence yet yearning for extensive support from DPI.

- Numerous state level policy makers and charter advocates noted a correlation between the schools that have chosen not to avail themselves of the state's various technical assistance offerings and the schools that are struggling with governance, finance, and special education. Failure to avail themselves of state offered training regarding special education can cost a charter school a significant amount of time and financial resources.

- Charter school operators are perceived to be ill informed about the obligations to educate all children and the subsequent rules and regulations that govern how they are to educate children with disabilities. State officials in the Office of Charter Schools as well as the Exceptional Children Division acknowledge that they are continually working to inform charter applicants and operators about special education but that there is a gap between what DPI provides and what the charter schools need. A charter operator characterized the gap as follows: "Special education is the most confusing area. If you [charter operators] don't know what questions to ask and you [DPI] are on the other side and don't know what people don't know, how can you bridge the gap?" Further, a charter operator suggested, "DPI needs to approach charters as if they don't know anything, they need to provide more training. They [DPI] talk about the public school process. But, we are building a car that is already on the race track."

- A frustration expressed by a number of charter school operators who are located a long distance from DPI is the challenge of attending technical assistance training. It is a hardship for schools which employ only a few teachers to send staff to training. This is compounded when the training is far away and there are high costs associated with it (i.e., travel time, transportation, hotel, meals etc.).

X. TRANSPORTATION

- Charter schools are not required to provide transportation but they are required to "develop a transportation plan so that transportation is not a barrier to any student who resides in the local school administrative unit in which the school is located." The charter schools are granted freedom to either facilitate a car-pooling system, contract for transportation or purchase buses and provide their own transportation. To address the transportation needs of students, some schools have bought buses. The state provides reimbursement to charters for their transportation costs using a formula based on the annual state allocation per eligible transported student minus 5% that the district withholds for administration.
- Discussions with state officials and charter operators did not reveal any specific issues in the area of providing transportation to children with disabilities. A state official explained that, "Transportation can be a special problem for a physically disabled child or a child with a severe disability but many charters actually contract with parents."

XI. ADHERENCE TO PHILOSOPHY AND MISSION

- Because charter schools are independent public schools and required to provide all special education services, operators expressed apprehension about their ability to honor their mission while meeting the needs of a potentially diverse student population in terms of disabilities. In practice, most charter schools enroll children with relatively mild or moderate disabilities and consequently, are not required to provide intense programs or services. However, even within this range, there is evidence in individual charter schools that operators may be offering generic or standard as opposed to individualized education as a compromise between meeting the needs of children with disabilities and meeting their overall school mission.

XII. EMERGING ISSUES

- The key impediment to charter schools developing the capacity to educate children with disabilities is the fact that they are essentially independent, single school LEAs and consequently, responsible for delivering a full array of special education services within a full continuum of placements. The impracticality of a single school operating as an LEA for the purposes of special education is emerging as a significant issue in North Carolina.

NATIONAL ASSOCIATION OF STATE DIRECTORS OF SPECIAL EDUCATION, INCORPORATED

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